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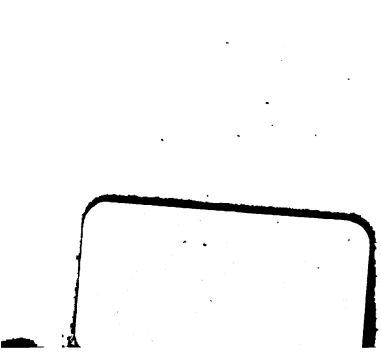

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AMERICAN POLITICS

BEFORE THE

REVOLUTION.

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THE

WORKS

OF

BENJAMIN FRANKLIN,

VOLUME II.

PHILADELPHIA:

PRINTED AND PUBLISHED BY WILLIAM DUANE.

1809.

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THE

WORKS

OF

DR. BENJAMIN FRANKLIN,

IN

PHILOSOPHY, POLITICS, AND MORALS:

CONTAINING, BESIDE ALL THE WRITINGS PUBLISHED IN FORMER COLLECTIONS, HIS

DIPLOMATIC CORRESPONDENCE,

AS MINISTER OF THE UNITED STATES, AT THE COURT OF VERSAILLES;

A VARIETY OF LITERARY ARTICLES,

AND

EPISTOLARY CORRESPONDENCE,

NEVER BEFORE PUBLISHED:

WITH

MEMOIRS AND ANECDOTES OF HIS LIFE.

VOL. II.

PHILADELPHIA: PRINTED AND PUBLISHED BY WILLIAM DUANE.

1809

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May 1913

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DISTRICT OF PENNSYLVANIA, TO WIT:

BE IT REMEMBERED, That on the Twentieth day of February, in the Thirty Third year of the Independence of the United States of America, A. D. 1809, WILLIAM DUANE of the said district, hath deposited in this office, the title of a book, the right whereof he claims as proprietor, in the words following, to wit: "The Works of Dr. Benjamin Franklin, in Philosophy, "Politics, and Morals: containing, beside all the Writings published "in former collections, his Diplomatic Correspondence, as minister of "the United States, at the Court of Versailles; a variety of Literary "Articles, and Epistolary Correspondence never before published: "with Memoirs and Anecdotes of his Life."

In conformity to the Act of the Congress of the United States, intituled "an Act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the times therein mentioned." And also to the Act, entitled "an Act supplementary to an Act, entitled, 'an Act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies during the times therein mentioned,' and extending the benefits thereof to the arts of designing, engraving, and etching historical and other prints."

D. CALDWELL,
Clerk of the District of Pennsylvania.

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NOTES BY THE EDITOR.

THIS volume contains an interesting review of the political and civil history of Pennsylvania, during a period of much interest to America in general, and of transactions which had much influence on subsequent events of a more comprehensive character and greater magnitude. The heirs of William Penn as proprietaries, had not preserved the entire confidence of the people; the governors sent hither by them from time to time, appear to have aggravated the ill will which arose on the false economy of the government. After several years struggle, between the proprietary and the popular interests, it was determined by the representative assembly, in 1757, to apply to the king of Great Britain in council for relief; and a committee being appointed, a report was drawn up of their grievances, which is the first paper in the present volume

Dr. Franklin was appointed the agent of Pennsylvania, and directed to present their complaint; for which purpose he departed for England in June of the same year. He began his mission in England by endeavoring to effect an amicable compromise with the proprietaries, in which he did not succeed. The business was then carried before the privy council. The public prints abounded with misrepresentations of the colonists; and two pamphlets on the same subject were published. Meanwhile Dr. Franklin published an anonymous book, entitled *An Historical Review of Pennsylvania*, which forms the second article in this volume.

This Review attracted much attention, and made a very deep impression in favor of the Pennsylvanians, against whom many prejudices had been previously excited. Much asperity followed against its author, who, thoug he did not absolutely disavow it, thought it preferable to enjoy the secret satisfaction arising from its beneficial effects, than to claim the literary honor that might attach to it. A writer who was a cotemporary, speaking of this Review, says Pennsylvania had in our author a most zealous and able advocate. His sentiments are manly, liberal, and spirited. His style close, nervous, and rhetorical. By a forcible display of the oppressions of his clients, he inclines the reader to pity their condition; and by an enumeration of their virtues he endeavors to remove the idea, which many entertained of their unimportance, and that abstracted from their consideration in a political light, they claim our regard by reason of their own personal merits.

Attempts have been made to deny the venerable patriot the merit of this like others of his more important works, because it was not claimed nor avowed; but it was enough that its object was accomplished; and it was not requisite to court that persecution which no men are so apt to resort to, as those who are defeated in their injustice, against men by whom their evil designs are frustrated.

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REPORT

OF THE

COMMITTEE OF GRIEVANCES

OF THE

ASSEMBLY OF PENNSYLVANIA.

FEB. 22, 1757.

IN obedience to the order of the house, we have drawn up the heads of the most important aggrievances that occur to us, which the people of this province with great difficulty labour under; the many infractions of the constitution (in manifest violation of the royal grant, the proprietary charter, the laws of this province, and of the laws, usages, and customs of our mother-country) and other matters; which we apprehend call aloud for redress.

They are as follow:

First, By the royal charter (which has ever been, ought to be, and truly is, the principal and invariable fundamental of this constitution) king Charles the second did give and grant unto William Penn, his heirs and assigns, the province of Pennsylvania; and also to him and his heirs, and his or their deputies or lieutenants, free, full, and absolute power, for the good and happy government thereof, to make and enact any laws, according to their best discretion; by and with the advice, assent, and approbation of the freemen of

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the said country, or of their delegates or deputies;" for the raising of money or any other end appertaining to the public state, peace, or safety of the said country. By the words of this grant, it is evident, that full powers are granted to the deputies and lieutenants of William Penn and his heirs, to concur with the people in framing laws for their protection and the safety of the province, according to their best discretion; independent of any instructions or directions they should receive from their principals. And it is equally obvious to your committee, that the people of this province and their representatives were interested in this royal grant; and by virtue thereof, have an original right of legislation inherent in them; which neither the proprietors nor any other person whatsoever can divest them of, restrain or abridge, without manifestly violating and destroying the letter, spirit, and design of this grant.

Nevertheless we unfortunately find, that the proprietaries of this province, regardless of this sacred fundamental of our rights and liberties, have so abridged and restricted their late and present governor's discretion in matters of legislation, by their illegal, impracticable, and unconstitutional instructions and prohibitions; that no bill for granting aids and supplies to our most gracious sovereign (be it ever so reasonable, expedient, and necessary for the defence of this his majesty's colony, and safety of his people) unless it be agreeable thereto, can meet with his approbation: by means whereof the many considerable sums of money which have been offered for those purposes, by the assemblies of this province (ever anxious to maintain his honor and rights) have been rejected: to the great encouragement of his majesty's enemies, and the imminent danger of the loss of this colony.

Secondly, The representatives of the people, in general assembly met, by virtue of the said royal grant, and the charter of privileges granted by the said William Penn, and a law of this province, have right to, and ought to enjoy all the powers and privileges of an assembly, according to the rights of the free-born subjects of England, and as is usual in any of the plantations in America: [also] it is an indubitable and

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now an incontested right of the commons of England, to grant aids and supplies to his majesty in any manner they think most easy to themselves and the people; and they [also] are the sole judges of the measure, manner, and time of granting and raising the same.

Nevertheless the proprietaries of this province, in contempt of the said royal grant, proprietary charter, and law of their colony, designing to subvert the fundamentals of this constitution, to deprive the assembly and people of their rights and privileges, and to assume an arbitrary and tyrannical power over the liberties and properties of his majesty's liege subjects, have so restrained the governors by the despotic instructions (which are not to be varied from, and are particularly directory in the framing and passing of money-bills and supplies to his majesty, as to the mode, measure, and time) that it is impossible for the assembly, should they lose all sense of their most essential rights, and comply with those instructions, to grant sufficient aids for the defence of this his majesty's province from the common enemy.

Thirdly, In pursuance of sundry acts of general assembly, approved of by the crown, [and] a natural right inherent in every man antecedent to all laws, the assemblies of this province have had the power of disposing of the public monies, that have been raised for the encouragement of trade and support of government, by the interest money arising by the loan of the bills of credit and the excise. No part of these monies was ever paid by the proprietaries, or ever raised on their estates; and therefore they can have no pretence of right to a voice in the disposition of them. They have ever been applied with prudent frugality to the honor and advantage of the public, and the king's immediate service, to the general approbation of the people: the credit of the government has been preserved, and the debts of the public punctually discharged. In short, no inconveniencies but great and many advantages have accrued, from the assembly's prudent care and management of these funds.

Yet the proprietaries resolved to deprive the assemblies of the power and means of supporting an agent in England,

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and of prosecuting their complaints and remonstrating their aggrievances, when injured and oppressed, to his majesty and his parliament; and to rob them of this natural right (which has been so often approved of by their gracious sovereign) have, by their said instructions, prohibited their governor from giving his assent to any laws emitting or re-emitting any paper-currency or bills of credit, or for raising money by excise or any other method; unless the governor or commander in chief for the time being, by clauses to be inserted therein, has a negative in the disposition of the monies arising thereby; let the languishing circumstances of our trade be ever so great, and a further or greater medium be ever so necessary for its support.

Fourthly, By the laws and statutes of England, the chief rents, honors, and castles of the crown are taxed, and *pay their proportion* to the supplies that are granted to the king for the defence of the realm and support of government: his majesty, the nobility of the realm, and all the British subjects, do now actually contribute their proportion towards the defence of America in general, and this province in particular; and it is in a more especial manner the duty of the *proprietaries* to pay their proportion of a tax, for the immediate preservation of their own estates, in this province. To exempt therefore any part of their estates from their reasonable part of this necessary burthen, it is unjust as it is illegal, and as new as it is arbitrary.

Yet the proprietaries, notwithstanding the general danger to which the nation and its colonies are exposed, and great distress of this province in particular, by their said instructions, have prohibited their governors from passing laws for the raising supplies for its defence; *unless* all their located, unimproved, and unoccupied lands, quit-rents, fines, and purchase monies on interest (the much greater part of their enormous estates in this colony) are expressly exempted from paying any part of the tax.

Fifthly, by virtue of the said royal charter, the proprietaries are invested with a power of doing every thing "which unto a complete establishment of justice, unto courts and

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tribunals, forms of judicature, and manner of proceedings, do belong." It was certainly the import and design of this grant, that the courts of judicature should be formed, and the judges and officers thereof hold their commissions, in a manner not repugnant, but agreeable to the laws and customs of England; that thereby they might remain free from the influence of persons in power, the rights of the people might be preserved, and their properties effectually secured. That by the guarantee, William Penn (understanding the said grant in this light) did, by his original frame of government, covenant and grant with the people, that the judges and other officers should hold their commissions during their *good behaviour, and no longer.*

Notwithstanding which, the governors of this province have, for many years past, granted all the commissions to the judges of the king's bench or supreme court of this province, and to the judges of the court of common pleas of the several counties, to be held during their *will and pleasure;* by means whereof, the said judges being subject to the influence and directions of the proprietaries and their governors, their favorites and creatures, the laws may not be duly administered or executed, but often wrested from their true sense, to serve particular purposes; the foundation of justice may be liable to be destroyed; and the lives, laws, liberties, priviliges, and properties of the people thereby rendered precarious and altogether insecure; to the great disgrace of our laws, and the inconceivable injury of his majesty's subjects.

Your committee further beg leave to add, that besides these aggrievances, there are other hardships the people of this province have experienced, that call for redress.—The *inlistment of servants, without the least satisfaction* being made to the masters, has not only prevented the cultivation of our lands, and diminished the trade and commerce of the province, but is a burthen extremely unequal and oppressive to individuals. And should the practice continue, the consequence must prove very discouraging to the further settlement of this colony, and prejudicial to his majesty's future service.—Justice, therefore, demands, that satisfaction

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should be made to the masters of such inlisted servants; and that the right of masters to their servants be confirmed and settled.—But as those servants have been inlisted into his majesty's service for the general defence of America, and not of this province only, but all the colonies, and the nation in general, have and will receive equal benefit from their service; this satisfaction should be made at the expence of the nation, and not of the province only.

That the people now labour under *a burthen of taxes*, almost insupportable by so young a colony, for the defence of its long-extended frontier, of about two hundred miles from New Jersey to Maryland; without either of those colonies, or the three lower counties on Delaware, contributing their proportion thereto; though their frontiers are in a great measure covered and protected by our forts. And should the war continue, and with it this unequal burthen, many of his majesty's subjects in this province will be reduced to want, and the province, if not lost to the enemy, involved in debt, and sunk under its load.

That notwithstanding this weight of taxes, the assemblies of this province *have given to the general service* of the nation, five thousand pounds to purchase provisions for the troops under general Braddock; two thousand nine hundred and eighty-five pounds and eleven pence for clearing a road by his orders; ten thousand five hundred and fourteen pounds ten shillings and a penny to general Shirley, for the purchasing provisions for the New England forces; and expended the sum of two thousand three hundred and eighty-five pounds and two pence halfpenny in supporting the inhabitants of Nova Scotia; which likewise we conceive ought to be a national expence.

And that his majesty's subjects, the merchants and insurers in England, as well as the merchants here and elsewhere, did during the last, and will during the present war, greatly suffer in their property, trade, and commerce, by the *enemy's privateers* on this coast, and at our capes, unless some method be fallen on to prevent it.

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Wherefore your committee are of opinion, that the commissioners intended to be sent to England, to solicit a memorial and redress of the many infractions and violations of the constitution; should also have it in charge, and be instructed to represent to our most gracious sovereign and his parliaments, the several unequal burthens and hardships before-mentioned; and endeavour to procure satisfaction to the masters of such servants as have been enlisted, and the right of masters to their servants established and confirmed; and obtain a repayment of the said several sums of money, some assistance towards defending our extensive frontier, and a vessel of war to protect the trade and commerce of this province.

Submitted to the correction of the house, Feb. 22, 1757.

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AN

HISTORICAL REVIEW

OF THE

CONSTITUTION AND GOVERNMENT

OF

PENNSYLVANIA,

FROM ITS ORIGIN;

SO FAR AS REGARDS THE SEVERAL POINTS OF CONTROVERSY

WHICH HAVE FROM TIME TO TIME ARISEN

BETWEEN

THE SEVERAL GOVERNORS OF PENNSYLVANIA

AND

THEIR SEVERAL ASSEMBLIES.

FOUNDED ON AUTHENTIC DOCUMENTS.

Those who give up essential liberty to purchase a little temporary safety, deserve neither liberty nor safety.

1808,

REPRINTED AT PHILADELPHIA

BY WM. DUANE,

FROM THE LONDON EDITION OF

1759.

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TO THE RIGHT HONORABLE

ARTHUR ONSLOW, ESQ.

SPEAKER OF THE HONORABLE HOUSE OF COMMONS.

SIR,

THE subject of the following sheets is an unhappy one: the controversy between the proprietaries and successive assemblies of Pennsylvania. A controversy which has often embarrassed, if not endangered the public service; a controversy which has been long depending, and which still seems to be as far from an issue as ever.

Our blessed Saviour reproaches the Pharisees with laying heavy burdens on men's shoulders, which they themselves would not stir with a single finger.

Our proprietaries, sir, have done the same; and for the sake of the commonwealth, the province has hitherto submitted to the imposition. Not, indeed, without the most strenuous endeavors to lay the load equally, the fullest manifestations of their right to do so, and the strongest protestations against the violence put upon them.

Having been most injuriously misrepresented and traduced in print by the known agents and dependants of these gentlemen their fellow subjects, they at last, find themselves obliged to set forth an historical state of their case, and to make their appeal to the public upon it.

With the public opinion in their favor, they may with the more confidence lift up their eyes to the wisdom of parliament and the majesty of the crown, from whence alone they can derive an effectual remedy.

To your hands, sir, these papers are most humbly presented, for considerations so obvious, that they scarce need any explanation.

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The Roman provinces did not stand more in need of patronage than ours: and such clients as we are would have preferred the integrity of Cato to the fortune of Cæsar.

The cause we bring is in fact the cause of all the provinces in one; it is the cause of every British subject in every part of the British dominions. It is the cause of every man who deserves to be free, every where.

The propriety, therefore of addressing these papers to a gentleman, who, for so many successive parliaments, with so much honor to himself and satisfaction to the public, has been at the head of the commons of Great Britain, cannot be called in question.

You will smile, sir, perhaps, as you read the references of a provincial assembly to the rights and claims of parliament; but, we humbly conceive, it will be without the least mixture of resentment; those assemblies having nothing more in view than barely to establish their privileges, on the most rational and solid basis they could find, for the security and service of their constituents.

And you are humbly besought, sir, not to think the worse of this address, because it has been made without your permission or privity.

Nobody asks leave to pay a debt; every Briton is your debtor, sir; and all we have said, or can say is but a poor composition for what we owe you.

You have conferred as much honour on the chair you fill, as the chair has conferred on you.

Probity and dignity are your characteristics.

May that seat always derive the same lustre from the same qualities.

This at least ought to be our prayer, whether it is or not within our expectations.

For the province of Pennsylvania, as well as in my own private capacity, I have the honour to be, with the most profound respect,

Sir,

Your most obedient

Humble servant,

THE EDITOR.

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INTRODUCTION.

TO obtain an infinite variety of purposes, by a few plain principles, is the characteristic of nature. As the eye is affected, so is the understanding; objects at a distance strike us according to their dimensions, or the quantity of light thrown upon them; near, according to their novelty or familiarity; as they are in motion or at rest. It is the same with actions. A battle is all motion:—a hero all glare; while such images are before us, we can attend to nothing else. Solon and Lycurgus would make no figure in the same scene with the king of Prussia: and we are at present so lost in the military scramble on the continent next us,* in which it must be confessed we are deeply interested, that we have scarce time to throw a glance towards America, where we have also much at stake; and where, if any where, our account must be made up at last.

We love to stare more than to reflect; and to be indolently amused at our leisure, rather than commit the smallest trespass on our patience by winding a painful, tedious maze, which would pay us nothing but knowledge.

But then, as there are some eyes which can find nothing marvellous, but what is marvellously great, so there are others which are equally disposed to marvel at what is marvellously little; and who can derive as much entertainment from their microscope in examining a mite, as Dr. ——, in ascertaining the geography of the moon, or measuring the tail of a comet.

Let this serve as an excuse for the author of these sheets, if he needs any, for bestowing them on the transactions of a colony, till of late hardly mentioned in our annals; in point of estab-

* This publication was made in London during the war that begun in 1753, and the author, who always adapts himself to his situation, and discernment enough to perceive that a work on a subject so important would lose none of its consideration by being published in a remote colony. The introduction which is a model of vivid style and sound wisdom, written as in London, and with the zeal of a man zealous for the prosperity of the British government.

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lishment one of the last upon the British list, and in point of rank one of the most subordinate; as being not only subject, in common with the rest, to the crown, but also to the claims of a proprietary, who thinks he does them honor enough in governing them by deputy; consequently so much farther removed from the royal eye, and so much the more exposed to the pressure of self-interested instructions.

Considerable, however, as most of them for happiness of situation, fertility of soil, product of valuable commodities, number of inhabitants, shipping, amount of exportations, latitude of rights and privileges, and every other requisite for the being and well-being of society, and more considerable than any of them all for the celerity of its growth, unassisted by any human help but the vigor and virtue of its own excellent constitution.

A father and his family, the latter united by interest and affection, the former to be revered for the wisdom of his institutions, and the indulgent use of his authority, was the form it was at first presented in. Those who were only ambitious of repose found it here; and as none returned with an evil report of the land, numbers followed, all partook of the leaven they found; the community still wore the same equal face; nobody aspired; nobody was oppressed; industry was sure of profit, knowledge of esteem, and virtue of veneration.

An assuming landlord, strongly disposed to convert free tenants into abject vassals, and to reap what he did not sow, countenanced and abetted by a few desperate and designing dependants, on the one side; and on the other, all who have sense enough to know their rights, and spirit enough to defend them, combined as one man against the said landlord, and his encroachments, is the form it has since assumed.

And, surely, to a nation born to liberty like this, bound to leave it unimpaired as they received it from their fathers in perpetuity to their heirs, and interested in the conservation of it in every appendage of the British empire, the particulars of such a contest cannot be wholly indifferent.

On the contrary, it is reasonable to think, the first workings of power against liberty, and the natural efforts of unbiassed men to secure themselves against the first approaches of oppression, must have a captivating power over every man of sensibility and discernment amongst us.

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Liberty, it seems, thrives best in the woods. America best cultivates what Germany brought forth. And were it not for certain ugly comparisons, hard to be suppressed, the pleasure arising from such a research would be without alloy.

In the feuds of Florence, recorded by Machiavel, we find more to lament and less to praise. Scarce can we believe the first citizens of the ancient republics had such pretensions to consideration, though so highly celebrated in ancient story. And as to ourselves, we need no longer have recourse to the late glorious stand of the French parliaments to excite our emulation.

It is a known custom among farmers to change their corn from season to season for the sake of filling the bushel: and in case the wisdom of the age should condescend to make the like experiment in another shape, from hence we may learn, whither to repair for the proper species.

It is not, however, to be presumed, that such as have long been accustomed to consider the colonies, in general, as only so many dependencies on the council-board, the board of trade, and the board of customs; or as a hot-bed for causes, jobs, and other pecuniary emoluments, and as bound as effectually by instructions as by laws, can be prevailed upon to consider these patriot-rustics with any degree of respect.

Derision, on the contrary, must be the lot of him who imagines it in the power of the pen, to set any lustre upon them; and indignation theirs for daring to assert and maintain the independency interwoven in their constitution, which now, it seems, is become an improper ingredient, and therefore to be excised away.

But how contemptible soever these gentlemen may talk of the colonies, how cheap soever they may hold their assemblies, or how insignificant the planters and traders who compose them, truth will be truth, and principle principle notwithstanding.

Courage, wisdom, integrity and honor are not to be measured by the sphere assigned them to act in, but by the trials they undergo, and the vouchers they furnish; and if so manifested, need neither robes, nor titles to set them off.

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A list of the several governors, deputy-governors, and presidents of Pennsylvania, with the times of their respective administrations, &c.

Wm. Penn, proprietor, acted as governor from Oct. 1682 to Aug. 1684.
Thomas Lloyd, esq. president, from Aug. 1684 to Dec. 1688.
Captain John Blackwell, deputy-governor, from Dec. 1688 to Feb. 1689-90.
President and council, from Feb. 1689-90 to April 26, 1693.
Benjamin Fletcher, esq. governor, from April 26 to June 3, 1693.
Wm. Markham, esq. deputy-governor, from June 3, 1693, to Dec. 1699.
Wm. Penn, esq. acted again as governor, from Dec. 3, 1699, to Nov. 1, 1701.
Andrew Hamilton, esq. deputy-governor, from Nov. 1, 1701, to Feb. 1702-3.
President and council, from Feb. 1702-3 to Feb. 1703-4.
John Evans, esq. deputy-governor, from Feb. 1703-4 to Feb. 1708-9.
Charles Gookin, esq. deputy-governor, from March 1708-9 to 1717.
Sir Wm. Keith, bart. deputy-governor, from March 1717 to June 1726.
Patrick Gordon, esq. deputy-governor, from June 1726 to June 1736.
James Logan, esq. president, from June 1736 to June 1738.
George Thomas, esq. deputy-governor, from June 1738 to June 1747.
Anthony Palmer, esq. president, from June 1747 to 1748.
James Hamilton, esq. deputy-governor from June 1748 to June 1754.
Robert Hunter Morris, esq. deputy-governor from Oct. 1754 to Aug. 19, 1756.
Wm. Denny, the present deputy-governor from Aug. 19, 1756.

Note.—The royal charter for Pennsylvania was granted, March 4, 1681.

The king's declaration or proclamation of the said grant, April 2, 1681.

The agreement between William Penn and certain adventurers and purchasers, intitled, certain conditions or concessions, &c. was signed in England, July 11, 1681.

The first frame of government for the province was made in England, April 25, 1682.

The first laws for the province were agreed upon in England, May 5, 1682.

The duke of York's deed for Pennsylvania was signed Aug. 21, 1682.

The duke of York's deed of feoffment of Newcastle, and twelve miles circle, to William Penn, Aug. 24, 1682.

The duke of York's deed of feoffment of a tract of land twelve miles south from Newcastle to the Whorekills, to William Penn, Aug. 24, 1682.

The first assembly held in the province at Chester, Dec. 4, 1682.

The act of union, annexing the Delaware counties to the province; and the act of settlement, containing a new frame of government, were passed, Dec. 6, 1682.

Another frame of government was passed, April 2, 1683.

And another frame of government, Nov. 7, 1696.

The charter of the city of Philadelphia passed, Oct. 25, 1701.

The charter of privileges for the province, being the present frame of government, passed Oct. 28, 1701.

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AN

HISTORICAL REVIEW

OF THE

CONSTITUTION AND GOVERNMENT

OF

PENNSYLVANIA.

THE constitution of Pennsylvania is derived, first, from the *birthright* of every British subject; secondly, from the *royal charter* granted to William Penn by king Charles II, and thirdly, from the *charter of privileges* granted by the said William Penn as proprietary and governor, in virtue of the former, to the freemen of the said province and *territories;* being the last of *four* at several periods issued by the same authority.

The birthright of every British subject is, to have a property of his own, in his estate, person, and reputation; subject only to laws enacted by his own concurrence, either in person or by his representatives: and which birthright accompanies him wheresoever he wanders or rests; so long as he is within the pale of the British dominions, and is true to his allegiance.

The royal charter was granted to William Penn in the beginning of the year 1681. A most alarming period! The nation being in a strong ferment; and the court forming an arbitrary plan; which, under the countenance of a small

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standing army, they began the same year to carry into execution, by cajoling some corporations, and forcing others by *quo warrantos* to surrender their *charters:* so that by the abuse of law, the disuse of parliaments, and the terror of power, the kingdom became in effect the prey of will and pleasure.

The charter governments of America had, before this, afforded a place of refuge to the persecuted and miserable; and, as if to enlarge the field of liberty abroad, which had been so sacrilegiously contracted at home, Pennsylvania even *then* was made a new *asylum*, where all who wished or desired to be free might be so for ever.

The basis of the grant expressed in the preamble was, the merits and services of admiral Penn, and the commendable desire of his son to enlarge the British empire, to promote such useful commodities as might be of benefit to it, and to civilize the savage inhabitants.

In the third section, which constitutes the said William Penn the true and absolute proprietary of the said province, there is a saving to the crown, of the faith and allegiance of the said William Penn, his heirs and assigns, and of all *other* proprietaries, tenants, and inhabitants of the said province, as also of the sovereignty thereof.

The fourth, professing to repose special trust and confidence in the fidelity, wisdom, justice, and provident circumspection of the said Penn, grants to him and his heirs, and to his and their deputies, free, full, and absolute power, for the *good* and *happy* government of the said country, to ordain, make, and enact, and under his or their seals, to publish any laws whatsoever, for the raising of money for public uses of the said province, or for any other end appertaining either unto the public state, peace, or safety of the said country, or unto the private utility of particular persons, according to their *best discretion;* by and with the advice, assent, and approbation of the freemen of the said country, or the greater part of them, or of their delegates and deputies, to be assembled in such sort and form, as to him and them shall seem best, and as often as need shall require.

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By the fifth, the said William Penn is empowered and authorised to erect courts of judicature, appoint judges, and administer justice in all forms, and carry all the laws so made as above, into execution, under the pains therein expressed; provided the said laws be consonant to reason, and not repugnant or contrary, (but as near as conveniently may be) agreeable, to the laws and statutes and *rights* of England; with a saving to the crown in case of appeals:—for this reason doubtless, That in case any act of injustice or oppression was committed, the party injured might be sure of redress.

By the sixth, which presumes, that in the government of so great a country, sudden accidents might happen, which would require a remedy *before* the *freeholders* or their delegates could be assembled to the making of laws, the said William Penn, and his heirs, by themselves or their magistrates duly ordained, are empowered to make and constitute fit and wholesome ordinances, from time to time, as well for the preservation of the peace, as for the better government of the inhabitants, under the same proviso as that above, regarding the laws, and so as that the said ordinances be not extended in any sort *to bind*, *change*, or take away the right or interest of any person or persons, for or in their life, members, freehold, goods, or chattels.

And to the end, that neither the said William Penn or his heirs, or other the planters, owners, or inhabitants of the said province, may, by misconstruction of the power aforesaid, through inadvertency, or design, depart from their faith and allegiance to the crown, the seventh section provides, that a transcript or duplicate of all laws, so made and published as aforesaid, shall within five years after the making thereof, be transmitted and delivered to the privy council for the time being: and if declared by the king in council, inconsistent with the sovereignty or lawful prerogative of the crown, or contrary to the faith and allegiance due to the *legal government* of this realm, shall be adjudged void.

The said William Penn is also obliged to have an attorney, or agent, to be his resident representative, at some known

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place in London, who is to be answerable to the crown for any misdemeanor committed, or wilful default or neglect, permitted by the said Penn against the laws of trade and navigation; and to defray the damages in his majesty's courts ascertained; and in case of failure, the government to be resumed and retained till payment has been made; without any prejudice however in any respect to the landholders or inhabitants, who are not to be affected or molested thereby.

His majesty moreover *covenants* and grants to and with the said William Penn, in the twentieth section, for himself, his heirs and successors, at no time thereafter, to impose or levy any tax on the inhabitants in any shape, unless the same be with the consent of the proprietary or chief governor, or assembly, or by act of parliament in England.

On pain of his highest displeasure, he also commands all his officers and ministers, that they do not presume at any time to attempt any thing to the contrary of the premises, or that they do in any sort withstand the same: and, on the contrary, enjoins them, to be at all times aiding and assisting, as was fitting, to the said William Penn and his heirs, and unto the inhabitants and merchants of the province aforesaid, their servants, ministers, factors, and assigns, in the full use and fruition of the benefit of the said charter.

And in the last place, a provision is made, by the king's special will, ordinance, and command, that, in case any doubt or question should thereafter perchance arise, concerning the true sense or meaning of any word, clause, or sentence contained therein, such interpretation should be made thereof and allowed in any of his majesty's courts, as should be adjudged most advantageous and favourable to the said William Penn, his heirs and assigns; provided always, that no interpretation be admitted thereof, by which the allegiance due to the crown may suffer any prejudice or diminution.

The whole consists of twenty three sections; of which it is presumed, these are the most material. They are penned with all the appearance of candour and simplicity imaginable; so that if craft had any thing to do with them, never

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was craft better hid. As little is left as possible to *future* instructions, and no where is there to be found the shadow of a pretence, that such instructions should be laws. All is equally agreeable to law and reason, the claims of the crown and the rights of the subject; nor, indeed, would the grant have been valid if it had been otherwise. The words *legal government* are words of great significancy.—No command of the king's is a legal command, unless consonant to law, and authenticated by one of his seals:—the forms of office in such case providing, that nothing illegal shall be carried into execution; and the officer himself being responsible to the laws in case of yielding a criminal obedience.

It would therefore be a waste of words to shew, that the crown is limited in all acts and grants by the fundamentals of the constitution; and that, as it cannot alienate any one limb or joint of the state, so neither, on the other, can it establish any colony upon, or contract it within a narrower scale, than the subject is entitled to by the great charter of England.

But if it is remarkable, that such an instrument as this should be the growth of an arbitrary court, it is equally so, that the king's brother, James, duke of York, (afterwards the most unhappy of kings) was at the rebound, a party in it; for it seems, the right to all that tract of land now called the territories of Pennsylvania, was, by a prior grant, vested in him; and, in August, 1682, he assigned it by his deeds of feoffment to the said William Penn.

It may also be inferred, that the said William Penn had been as diligent in collecting a number of proper adventurers together, as in obtaining the necessary authorities from the crown: for in the interval between the charter and the grant, he made use of the provisional powers given him by the sixth section of the former, to pass his first deed of settlement under the title of "Certain conditions, or concessions, agreed upon by William Penn, proprietary and governor of Pennsylvania, and those who are the adventurers and purchasers in the same province."

This, however, contains only rules of settlement, and of

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trade with, and treatment of the Indians, &c. with the addition of some general injunctions for preserving of order and keeping the peace, agreeable to the customs, usages, and laws of England.

In the next year following, Mr. Penn printed and published a system of government, under the following title, to wit, "The frame of the government of the province of Pennsylvania in America: together with certain laws agreed upon in England, by the governor and divers freemen of the aforesaid province. To be farther explained and confirmed *there* by the first provincial council, *if they see meet.*"

At the head of this frame, or system, is a short preliminary discourse, part of which serves to give us a more lively idea of Mr. Penn preaching in Grace-church-street, than we derive from Raphael's Cartoon of Paul preaching at Athens: as a man of conscience he sets out; as a man of reason he proceeds; and as a man of the world he offers the most plausible conditions to *all*, to the end that he might gain *some*.

Two paragraphs of this discourse, the people of Pennsylvania ought to have for ever before their eyes: to wit, 1. "Any government is free to the people (whatever be the frame) where the laws rule and the people are a party to those laws: and more than this is tyranny, oligarchy, or confusion." 2. "To support power in reverence with the people, and to secure the people from the abuse of power, that they may be free by their just obedience, and the magistrates honorable for their just administration, are the great ends of all government."

This frame consisted of twenty-four articles, and savored very strongly of Harrington and his Oceana. In the governor and freemen of the province, in the form of a provincial council, (always in being and yet always changing,) and general assembly, the government was placed. By them conjunctively, all laws were to be made, all officers appointed, and all public affairs transacted. Seventy-two was the number this council was to consist of: they were to be chosen by the freemen; and, though the governor or his deputy was to be perpetual president, he had but a treble vote. One

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third of them was, at the first, to be chosen for three years, one third for two years, and one third for one year; in such manner that there should be an annual succession of twenty-four new members, &c. The general assembly was at first to consist of all the freemen, afterwards of two hundred, and never was to exceed five hundred.

The laws agreed upon in England were in all forty; partly political, partly moral, and partly economical. They are of the nature of an original compact between the proprietary and the freemen, and as such were reciprocally received and executed.

But in the following year the scene of action being shifted from the mother country to the colony, the deportment of the legislator was shifted too. Less of the man of God now appeared, and more of the man of the world.

One point he had already carried against the inclination of his followers; namely, the reservation of quit-rents, which they had remonstrated against as a burden in itself, and, added to the purchase-money, was without precedent in any other colony: but he artfully distinguishing the two capacities of proprietary and governor; and insinuating, that government must be supported with splendor and dignity, and that by this expedient they would be exempt from other taxes; the bait took and the point was carried.

To unite the subtlety of the serpent with the innocence of the dove is not so easily done as said. Having in this instance experienced the weight of his credit and the power of his persuasion, he was no sooner landed, than he formed a double scheme for uniting the province with the territory, though it does not appear he was properly authorised so to do, and to substitute another frame of government in lieu of the former, which having answered the great purpose of inducement here at home,[1] for collecting of subjects, he was now inclined to render somewhat more favourable to himself in point of government.

Of much artifice we find him accused (by the provincial

[1] England, where this Review was first published.

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assembly of 1704, in a representation addressed to himself) in the whole course of this proceeding; whether justly or not let the world determine.

They tell him, for example, in so many words, "That we find by the minutes of the assembly and other papers, as well as living witnesses, that, soon after thy first arrival here, thou, having obtained the duke's grant for the *three lower counties* [the *territory* that is to say] prevailed with the people of the province to unite in legislation and government with them of the lower counties; and then by a subtle contrivance and artifice, laid deeper than the capacities of some could fathom, or the circumstances of many could admit them time then to consider of, a way was found out to lay aside that, and introduce another charter, which thou completed in the year 1683."

At a place called Chester, in December, 1682, the freemen both of the province and territory were convened; but those of the province having, by election, returned twelve persons to serve for each county as members of the provincial council, were induced to accompany that return with significations and petitions by their sheriffs, &c. importing that because of the fewness of the people, their inability in estate, and their unskilfulness in matters of government, their desire was, that the twelve so returned for each county, might serve both for provincial council and general assembly; that is to say, three of each twelve for members of council, and the remaining nine for assembly-men; with the same powers and privileges granted by the charter or frame of government to the whole: and according to these significations and petitions of theirs, an act of settlement was drawn up and passed, in which, after the said charter or frame has been artfully mentioned as one of those *probationary* laws, which by the council and assembly might be altered, at pleasure, the model of the said council and assembly so reduced is admitted; the persons so returned are declared and enacted to be the legal council and assembly; the number of the said council is fixed at three persons out of each

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county for the time to come; the number of assembly-men for each is reduced to six; and, after a variety of farther regulations, the said charter or frame is solemnly recognized and accepted: as if with these alterations and amendments it was understood to be complete.

The act for uniting the province and the territory humbly *besought*, as it is therein specified, by the deputies of the said territory, was also passed at the same time and place; in virtue of which all the benefits and advantages before granted to the provincials, were equally communicated to both; and both from that time were to be as one people under one and the same government.

Of this act, however, the provincial assembly of 1704, in the representation to their proprietary before cited, complain in the terms following:

"And as to the conveniency of the union of the province and lower counties, we cannot gainsay it, if the king had granted thee the government as the duke had done the soil: but to our great grief and trouble, we cannot find that thou had any such grant; and if thou had, thou would not produce it, though often requested so to do: therefore we take it the harder that thou, who knew how precarious thy power was to govern the lower counties, should bring thy province into such a state and condition, that whenever the crown had assumed that government, or the people there revolted, or refused to act with us in legislation, as they often did, that then the said second charter should become impracticable, and the privileges thereby granted of no effect to the province, because the representatives of the lower counties were equal in number with those of the province, and the charter required a greater number than the province had, or by charter could elect for members of council and assembly; and our numbers, by the charter, could not be increased without the revolter's consent."

In the interval between this session at Chester, in December, 1682, and the next at Philadelphia in March and April, 1683, Mr. Penn, notwithstanding the act of settlement, for-

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nished himself with another *frame*, in part conformable to the first, in part modified according to the said act; and in part essentially different from both: and concerning this again, the assembly of 1704, in their representation aforesaid, thus freely expostulate with the proprietary: to wit,

"The motives which we find upon record, inducing the people to accept of that second charter, were chiefly two, *viz.* That the number of representatives would prove burdensome to the country: and the other was, that, in regard thou had but a *treble vote*, the people, through their unskilfulness in the laws of trade and navigation, might pass some laws over thy head repugnant thereunto, which might occasion the forfeiture of the king's letters patent, by which this country was granted to thee; and wherein is a clause for that purpose, which we find much relied upon, and frequently read or urged in the assembly of that time; and security demanded by thee from the people on that account." "As to the first motive, we know that the number of representatives might have been very well reduced without a new charter: and as to the laws of trade, we cannot conceive that a people so fond of thyself for (their) governor, and who saw much with thy eyes in those affairs, should, against thy advice and cautions, make laws repugnant to those of trade, and so bring trouble and disappointment upon themselves, by being a means of suspending thy administration; the influence whereof and hopes of thy continuance therein, induced them, as we charitably conclude, to embark with thee in that great and weighty affair, more than the honor due to persons in those stations, or any sinister ends destructive to the constitution they acted by. Therefore, we see no just cause thou had to insist on such security, or to have a negative upon bills to be passed into laws in general assemblies, since thou had by the said charter (pursuant to the authority and direction of the king's letters patent aforesaid) formed those assemblies, and, thereupon reserved but a treble vote in the provincial council, which could not be more injurious to thee than to the people, for the reasons aforesaid."

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And again, afterwards.

"Thus was the first charter laid aside, contrary to the tenor thereof, and true intent of the first adventurers; and the second charter introduced and accepted by the general assembly held at Philadelphia, in the first and second months, 1683, where thou solemnly testified, that what was inserted in that charter was solely intended by thee for the good and benefit of the freemen of the province, and prosecuted with much earnestness in thy spirit towards God at the time of its composure."—

In less than three years after Mr. Penn's arrival in the province, and when it *began* to wear a thriving face, a dispute between lord Baltimore, proprietary of Maryland, and him, furnished him with a pretence to return to England; leaving the government to be administered by five commissioners of state, taken out of the provincial council, the remainder of that council, and the general assembly.

James II. was now on the throne: Mr. Penn was attached to him closely by obligations, if not by principles: that prince's impolitic plan of restoring the Roman ritual by universal toleration, seems to have been almost inspired by him: in the king's dispute with the fellows of Magdalen college, Mr. Penn was an active instrument on his majesty's behalf, not without some injurious imputations to himself: and for some years after the revolution, had the misfortune to lie under the suspicions and the frowns of the government.

His nursling-colony was yet in the cradle, while it was thus deserted; consequently stood in need of all expedience to facilitate its growth, and all preservatives against disorders.

Disorders it actually fell into, which are still to be traced in the minutes of their assemblies: one More in particular, we find impeached by the assembly before the provincial council, of misdemeanor in ten several articles, and, in a letter to the proprietary, signed by John White, speaker, represented as an *aspiring and corrupt minister of state*.

We find the assembly and provincial council at variance about their respective powers and privileges: what is more

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extraordinary still, we find the proprietary, in 1686, requiring and enjoining his said commissioners to dissolve the the frame of government by his late charter constituted; and they not being able to carry this point, we find, in December, 1688, a deputy-governor appointed, captain John Blackwell, who, like a practised man, set out with endeavouring to sow dissensions among the freemen, and by making such a display of the proprietary power as might awe the majority into proprietary measures.

Thus John White, the former speaker, who signed the letter from the assembly to Mr. Penn, concerning the misdemeanors of More, was no sooner returned for the county of Newcastle, than he was thrown into prison, and by violence wrested out of the hands of the assembly, after he had been brought up to Philadelphia by *habeas corpus*. The said governor also finding that the said assembly was not of the proprietary complexion, and that they were disposed to open the session with a discussion of grievances, found pretences for several days to evade giving them audience, all either frivolous or groundless; and in the mean time, left no stone unturned to temper the council to his own mind; and then by their concurrence, to make a suitable impression upon the assembly.

The assembly, however, not only retained their firmness, but also took care to leave the two following memorials of it in their minutes: to wit,

May 14. "That whereas this assembly have attended here for several days, and have sent several messengers to the governor and council, appointed to confer with the members of assembly according to charter: and whereas the said messengers have given this house to understand, that they were answered by the governor, that there was not a full council to receive them: and, whereas this house being well assured, that there is, and has been, for these two days last past, a competent number of members in town, ready to yield their attendance, yet several of the said members have not been hitherto *permitted* to sit in council, to the great detriment and grievance of the country: therefore, we de-

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sire, that these grievances may be speedily redressed, and our liberties inviolably preserved."

May 15. "That no person who is commissionated or appointed by the governor to receive the governor's fines, forfeitures, or revenues whatsoever, shall sit in judgment in any court of judicature within this government, in any matter or cause whatsoever, where a fine or forfeiture shall or may accrue to the governor."

On the last of these two days, and previous to the last of these votes, the governor at length favoured them with the meeting desired; and thereat made a speech, in which are the following remarkable paragraphs: *viz.*

"I suppose you have been formerly acquainted with the reasons and necessity of the proprietary's absenting himself so long from you as till the late revolutions in England; he hath frequently evidenced his strong desire above all things to be restored to you: what hath hindered of late, we have from the divers reports of things transacted in England, which require we should wait for their being rendered more certain; and, in the mean time, strive in our prayers, that the Lord, who governs this universe, will do it in his wisdom and good will, towards all his suffering people, and ourselves in particular.

"I suppose, gentlemen, you expected some bills should have been sent down to you from the provincial council, for your consideration, before your coming up and passing them into laws at this meeting. Divers reasons might be why none were; I shall acquaint you with some of them: *viz.*

"1. The honorable proprietary, for reasons known to himself, hath given positive directions for letting all the laws drop or fall, except the *fundamentals*, and afterwards for calling together the legislative authority, to pass such of them, or others, as they should see fit for the future; which is my full intention to do.

"2. The honorable proprietary, being by his patent from the king, authorised by himself, his heirs, &c. with consent of the freemen, to make, and under his seal to publish, necessary laws for the good of the people; which had never

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been done with all requisite circumstances, whilst himself was here; and without which, I must doubt whether what were passed, or should hereafter be passed, have that due sanction or establishment which laws require; and finding the great seal, under which they should pass, was not to be had, the keeper thereof refusing to allow the use of it in any cases by my direction, I therefore looked upon it as labour in vain to attempt it.

"3. The present posture and alteration of affairs in England; the uncertainty touching the condition of the proprietary himself, and his power; and the fears of what dangers might ensue, as well to him as ourselves, in passing and confirming laws of such a nature, as would have been approved of in this conjuncture of affairs, forbad it.

"4. The animosities and dissentions which were here amongst you before I came, and have been lately revived amongst the members of the provincial council, by the endeavours of some, as to their proceedings in that service, hindered their agreement in council, as to doing any thing; insomuch as I was constrained, for love and peace sake, upon that and the other foregoing considerations, to dismiss them from further attendance on that account.

"5. An expedient occurred to me, of less danger to us all: *viz.* that I, being by my commission, as aforesaid, referred for my rule and instructions to the laws then in being, and which had been, as well by the proprietary as people, approved and owned as such, whilst he was amongst you here, and observing that he had reserved the confirmation and disannulling of what laws should be made in his absence, to himself; so that if any were or should be proposed, they could not take effect among us as laws, till his pleasure should be therein declared; I came to a resolution within myself, of observing them in the course of my government, as so many rules and instructions given me by my master, as far as I should find and judge them not contrary to the laws of England, and in supplying the want or defect in your laws by the laws of England, which I believe will be most grateful to our superiors in England, especially at this

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time; and will be as useful among ourselves, there being no other way occurring to my understanding whereby you may receive the benefit of them: and in this purpose I am ready, unless you should otherwise advise, until by better information out of England, we shall be led out of these state meanders."

The assembly answered, among other things, as follows: *viz.*

"We heartily wish that thy design in coming hither, with all imaginable respect to our governor and inhabitants here, may be pursued accordingly with suitable measures; and we cannot but have that opinion of our worthy governor's tender regard to the people here, that as he will justify no unbecoming behaviour in us towards his representative, so we hope he will vindicate no unlawful or rigid procedure against us. As to our governor's absence, we are very sensible that, as it may be to his disappointment, so it is extremely to our prejudice. We were in expectation of receiving bills from thee and the council as formerly; to the reason thou art pleased to give why none are sent, that the proprietary and governor hath given directions for letting all the laws drop or fall, we are credibly informed, that afterwards he was well pleased they should stand; and all the laws made here since his departure, were sent for his perusal, and none of them, to our knowledge, in the least declared void by him; neither do we conceive that he hath any reason so to do.

"As to the establishment of laws, we expected nor aimed at any higher sanction than was used in the governor's time; but in case bills had been prepared and promulgated according to charter, and had passed by us into laws, and the great seal had been necessary, and the same duly required to be applied to the said laws, and the keeper refused the same, then we might justly blame such refusal: but as to the way thou mentions, that our proprietary and governor is authorised by himself, and with consent of the freemen, to make laws, and under his seal to publish them, and not in the granted way of the charter and *act of settlement;* as we

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do not desire, so our hopes are, that no laws of that make will be imposed upon us: and had we made laws at this time, as formerly, we question not but that they had been as inoffensive in the present conjuncture, as afore: and we do conceive, that our laws here, not being declared or adjudged by the king under his privy seal to be void, do remain and stand in full force, according to the true intent and meaning thereof.

"As for the charge of animosities and dissentions amongst us before thy coming here, it is so general, that we can make no other answer than that in matters of government, our apprehensions were otherwise, the end of good government being answered, in that power was supported in reverence with the people, and the people were secured from the abuse of power; but for what thou mentions to have been renewed since amongst the members of council, we leave them to answer.

"As to the expedient proposed, of thy governing this province and territories, by such of the laws as were made before our proprietary and governor went hence, which thou shalt judge not contrary to the laws of England, we conceive no such expedient can be consistent with our constitution, without the concurrence of the council, according to such methods as have been heretofore used in legislature, and what course of government is otherwise, will be ungrateful and uncertain to us, for how far the laws of England are to be our rules, is declared by the king's letters patent.

"As to thy assuring us, thy just compliance with us, in what we may reasonably desire, we take it kindly, and do desire that our members of council may be permitted to sit, according to our former request."

The governor finding himself thus steadily opposed, had recourse to another piece of practice, which was to prevail on certain members to withdraw themselves from the house: the house, on the other hand, voted this to be a treachery, and farther prepared and presented the following request to the governor: *viz.*

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"To the Governor and Council, sitting at Philadelphia, the twentieth day of the third month, 1689.

"We the representatives of the freemen of Pennsylvania, and territories thereof, in assembly met, being much disappointed in our expectation in not finding any bills prepared and promulgated by you for a further concurrence; and perceiving three members duly elected to serve in council (in whose wisdom and faithfulness we much confide) too long kept out; and that a member of our own, is treated with great rigor and severity in the time of assembly, and not allowed to be with us, though most of us have known him to have been serviceable therein these several years: we (being under a strait in these considerations) do request your tender regard of our grievances already presented, and of our answer presented to the governor in council, to his speech delivered to us there; and we do desire, you do not go to dismiss us until we are received, and righted in our just complaints: and that we be not discouraged in charging before the provincial council, such persons or members whom we can with great probability make appear to be ill ministers and chief authors of the present arbitrariness in government; and who are men unworthy, as we conceive, to be much consulted with, and unfit to be chief magistrates.—What we purpose to do herein, shall be orderly, speedily, and within bounds."

It does not appear that this request met with any regard, or that the proprietary interest gained any ground in the assemblies held the two subsequent years: and in the year 1693, the king and queen assumed the government of the colony into their own hands; under what pretext, in virtue of what management, whether to gratify any displeasure conceived against Mr. Penn, or in concert with him, is not specified.

Colonel Fletcher was appointed governor of New York and Pennsylvania by one and the same commission, with equal powers and prerogatives in both provinces; as if there was no such thing as a charter extant.

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This commission of his was, also, accompanied with a letter from the queen, countersigned Nottingham, requiring him, as governor of Pennsylvania, to send such aid or assistance, in men or otherwise, for the security of the province of New York against the attempts of the French and Indians, as the condition of the said colony would permit, as if the good will of the freemen was no longer worth mentioning.

To the assembly, however, this royal visitor thought fit to communicate both his commission and her majesty's said letter. But then it was an assembly widely different from that appointed by their charter. Instead of six members for each of the six counties, those of Philadelphia and Newcastle were reduced to four each, and the rest to three; difference sixteen: and, as an act of grace, his excellency dispensed with the oaths of such as made it a point of conscience not to swear; and accepted a written profession and declaration of allegiance, before established in their stead. Whether so strange an innovation was openly and specially complained of or not, the assembly had nevertheless the spirit to open their session with the following resolution, which passed *nem. con.* "That the laws of this province that were in force and practice before the arrival of this present governor, are still in force: and that the assembly have a right humbly to move the governor for a continuation or confirmation of the same."

They also interwove this vote of theirs in their address to him, and, not unartfully introduced it under the umbrage of an insinuation, that the king and queen had thought fit to appoint him to be their governor, because of the absence of their proprietary; but derived no benefit from it: for the governor bluntly told them, "he was sorry to find their desires grounded upon so great mistakes:" adding these emphatical expressions, "the absence of the proprietary is the least cause mentioned in their majesty's letters patent, for their majesties asserting their undoubted right of governing their subjects in this province. There are reasons of greater moment: as the neglects and miscarriages in the late ad-

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ministration; the want of necessary defence against the enemy; the danger of [the province must be understood] being lost from the crown.—The constitution of their majesties' government and that of Mr. Penn's are in *direct opposition* one to the other: if you will be tenacious in stickling for this, it is a plain demonstration, use what words you please, that indeed you decline the other."

The assembly again, not to be wanting in duty to the king and queen, nor consistency to themselves, admitted their majesties right of government to be indubitable; but would not allow themselves to be under any mistake in relation to the proprietary's absence. "And to the other reasons rendered, (said they in their remonstrances) for the superceding our proprietary's governancy, we apprehend [they] are founded on misinformations; for the courts of justice were open in all counties in this government, and justice duly executed from the highest crimes of treason and murder to the determining the lowest difference about property, before the date or arrival of the governor's commission. Neither do we apprehend, that the province was in danger of being lost from the crown, although the government was in the hands of some whose principles are not for war: and we conceive, that the present governancy hath no direct opposition (with respect to the king's government here in general) to our proprietary's William Penn, though the exercise of thy authority at present supersedes that of our said proprietary: nevertheless we readily own thee for our lawful governor, saving to ourselves and those whom we represent, our and their just rights and privileges."

Proceeding then to business, they voted a supply; but inclined to have their laws confirmed and their grievances redressed first: accordingly, they sent up a committee of ten, with the book of their laws to the governor for his acceptance and ratification: and, after a long debate between him, assisted by five of his council, and them, which was terminated on his side somewhat equivocally, he sent two of the said council to assure the house, in his name, of his confirmation of all the said laws (excepting one relating to ship-

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wrecks) during the king's pleasure: for which they thought proper to return him a vote of thanks.

Nor is it much to be wondered at, that men taken by surprise, out of the hands of their *friend*, the proprietary, and exposed at once to a wrestling-match with the crown, which they had never had any immediate transactions with before, should submit to hold their liberties by courtesy, rather than incur the least risk of not holding them at all.

There was, however, a party among them, who having drawn up a petition of right, claiming and desiring the use and benefit of two hundred and three laws therein specified, as in all respects consonant to their charter, and none of them annulled by the crown in consequence of the power reserved to the sovereign; would hear of no abatement; and who had credit enough with the assembly to obtain the sending a message to the governor, signifying, "that it was the sense and expectation of the assembly, that aggrievances ought to be redressed before any bill of supply ought to pass."

And here their hearts failed them: for the governor having returned the bill sent up with the message which he had proposed amendments to, without any specifications of what those amendments were to be, with the following answer, "that the assembly should have no account of the amendments of the bill, till they came in a full house before him to give the last sanction to the laws;" and farther, "that he saw nothing would do but an annexion to New York." The menace carried the supply.

When the bill for granting it was however sent up, they not only sent up the roll of their laws with it, but also gave that part of their order the first place in their books.

They further "Resolved, *nem. con.* that all bills sent to the governor and council in order to be amended, ought to be returned to this house, to have their farther approbation upon such amendments, before they can have their final assent to pass into laws."

And though they did not join with their committee of ten in the following paper, they suffered it to be entered in their books, by way of protest on their behalf: to wit,

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"We whose names are hereunto subscribed, representatives of the freemen of this province in assembly, do declare, it is the undoubted right of this house to receive back from the governor and council all such bills as are sent up for their approbation or amendments: and that it is as necessary to know the amendments, and debate the same, as the body of the bills: and that the denial of that right is destructive to the freedom of making laws. And we also declare, it is the right of the assembly, that, before any bill for supplies be presented for the last sanction of a law, aggrievances ought to be redressed. Therefore, we, with *protestation* (saving our just rights in assembly) do declare, that the assent of such of us, as were for sending up the bill this morning, was merely in consideration of the governor's speedy departure, but that it should not be drawn into example or precedent for the future. DAVID LLOYD," &c.

And concerning this whole period, we find the freemen in assembly met for the year 1704, thus farther expostulating with their proprietary, in the remonstrance already more than once referred to: to wit, "But what thou and they (the five commissioners of state) could not effect in that behalf, was performed by colonel Fletcher in the year 1693, and then we were brought under the immediate direction of the crown, but with commands for him to govern us by the laws of the country: and although both the laws and charter had been long before transmitted to thee, in order to get the late king's (James) approbation thereof, which we insisted upon, and urged that they were laws till disapproved, yet thou having sent no account whether they were approved or not, we were forced to comply with him, and accept of such as he pleased: but the charter he totally rejected."

Before he set out for New York, he did however give a written sanction to the laws required; and the next year's assembly proved notwithstanding to be of the same leaven with the last.

This assembly had been summoned by the writs of the lieutenant governor (Markham) and when met in a humour to state and redress the grievances of the colony, found

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themselves precluded from acting by an order from Fletcher for their adjournment.

That, therefore, they might make the most of two days, they appointed a committee of grievances; and having received their report, agreed upon a remonstrance to the governor thereon, containing a complaint of their being sent for only to be dismissed; asserting the right of the house to adjourn themselves; and among several other particulars, calling upon the governor so to exert his power and authority, that cases determined by juries might not be unduly avoided by determinations in equity; that to prevent arbitrary assessments and the dissatisfaction they gave rise to, the justices of the peace might consult with, and be directed by the approbation of the several grand juries; and that the money raised by the last assembly might be properly applied and properly accounted for to the present at their next sitting.

Their right of adjourning themselves having been admitted, they met accordingly towards the end of the next month. —Governor Fletcher was by this time returned to them in person; and in the opening of his speech, made them a handsome apology for not meeting them before; urging the necessity of a sudden journey to Albany, to endeavor at reclaiming the *five nations of Indians*, hitherto the allies of England, but now confederated with the governor of Canada against us; said he had brought the papers which passed at the conference along with him, for their satisfaction; that their Indians would be next forced into the same fatal confederacy; that he had seen with his eyes, a large tract of cultivated land about Albany, which had been abandoned by the inhabitants, rather through the unkindness of their neighbours in refusing them assistance, than by the force of the enemy: prayed, that those who shut their eyes against a distant danger, might not find it at their own doors; extolled the two provinces of Jersey for the aids they had sent; and concluded thus, "*Gentlemen*, I consider your principles, that you will not carry arms, nor levy money to make war, though for your own defence; yet I hope you will not refuse to *feed the hungry* and *clothe the naked:* my meaning

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is to supply those Indian nations with such necessaries as may influence them to a continuance of their friendship to these provinces. And now, gentlemen, if you will consider wherein I may be useful to you, according to the tenor of my commission, in redressing your grievances, if you have any, you shall find me ready to act by the rules of loyalty, with a true regard to liberty and property."

What appears to have been most remarkable in this session was a dispute between the governor and the house about a money bill: he alleging it was inconsistent with his trust to pass the bill, because they had named collectors therein, which seemed to derogate from the confidence reposed in the king's officer appointed to collect the last tax; and insisting upon some answer to the queen's letter, before he came to a final resolution concerning it: and they at once adhering to their bill, and desiring it might not be rejected on the first of those accounts; since they could not but assert their undoubted right to appropriate as well as raise money, agreeable to the privileges heretofore granted them, the practice in England, as well as in that and also in some of the neighbouring colonies; and that as to the receiver, when their appropriations had been answered, he was to dispose of the remainder as the governor and council should order.

The governor still pressed for their answer to her majesty, instead of giving them the satisfaction desired; and the said answer proving to be a remonstrance, he dissolved them.

Of the next sessions the accounts are extremely imperfect. We find, indeed, by a course of minutes, that a joint committee of the council, at the requisition of the governor, had several meetings, to consider of the queen's letter, the governor's demands thereon in his speech, and an act of settlement; that an answer to his speech was drawn up and sent to the governor, together with an act of settlement; that the messengers on their return, reported, they had delivered both, and were told the governor and council had no farther business at present; and that after several adjournments,

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being met in committee, and in high debate, their attendance was required by the governor in order to dissolve them.

That the demands made upon them, in virtue of the queen's letter, were the subject of these debates, is more than probable: and if so, it will follow, that their want of will or power to comply with them was the cause of their dissolution.

In the year 1696, being the next year following, Markham, once the proprietary's secretary and clerk of the council, and of late lieutenant governor, summoned the next assembly, as lieutenant to the proprietary now reinstated in the government; and at their meeting, recommended governor Fletcher's speech at the opening of the New York assembly, thereby to excite the charity of Pennsylvania, in relieving the poor Indians, whose corn and provisions had been destroyed by the French: and the sense of the house upon it was, by way of message, thus communicated.

"Whereas the governor has been pleased to convene us, by his writs, although not in the form[2] of our charter, as we could desire, we have obeyed the same, and considered what he has laid before us, viz. an answer to the late queen's letter, and our proprietary's promise upon his restoration to his government; and are heartily and unanimously willing and ready to perform our duty therein, so far as in us lies, if the governor would be pleased to settle us in our former constitutions, enjoyed by us before this government was committed to governor Fletcher's trust."

This was followed, on the governor's part, with a demand of money as before for the relief of the Indians: and the assembly chusing to take care of the provincial constitution first, required the governor to appoint a committee of the council to join with a committee of the assembly for that purpose: such a joint committee was appointed accordingly; who agreed in recommending this expedient, "that the governor, at the request of the assembly would be pleased to

[2] They had been issued upon Fletcher's plan before specified.

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pass an act (of settlement must be understood) with a salvo to the proprietary and people; and that he would also issue out his writs for chusing a full number of representatives on the 10th of March next ensuing, to serve in provincial council and assembly according to charter, until the proprietary's pleasure should be known therein; and that if the proprietary should disapprove the same, that then the said act should be void, and no ways prejudicial to him or the people in relation to the validity or invalidity of the said charter."

To this expedient the house unanimously agreed. A bill of settlement, and a money bill, were thereupon ordered and prepared; and after some temperament, reported, agreed to, and passed.

The money bill was for raising three hundred pounds for support of government, and relieving the distressed Indians.

In the act of settlement, the rotation principle was wholly dropped. Elections both of council and assembly were to be annual and certain: the time of election, March 10th: the time of sitting, May the 10th: the members of council for each county two, for the assembly four: they were to be of the most note for virtue, wisdom, and ability, and otherwise qualified in point of fortune and residency. In the governor or his deputy, and the said assembly and council, the government was placed. The governor or his deputy was to preside in council; but at no time perform any act of state whatsoever, but by and with the advice and consent of the council, or a majority thereof: that two-thirds were to be a quorum in the upper walk of business, and one-third in the lower: that the assembly should have power to propose bills as well as the council: that both might confer on such as either of them should propose: that such as the governor in council gave his consent to, should be laws: that the style of those laws should be,—By the governor, with the assent and the approbation of the freemen in general assembly met: that duplicates thereof should be transmitted to the king's council, according to the late king's patent: that the assembly should sit on their own

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adjournments and committees, and continue to prepare and propose bills, redress grievances, impeach criminals, &c. till dismissed by the governor and council; and to remain during the year liable to serve upon his and their summons; should be allowed wages and travelling charges; two-thirds to make a quorum; all questions to be decided by a majority; affirmations to be admitted in all courts, &c. instead of oaths, where required; all persons in possession of lands by purchase or otherwise under any legal or equitable claim, so to continue; sheriffs and their substitutes to give security for office behaviour; elections were to be free, regular, incorrupt, &c. no member being permitted to serve without wages, or for less wages than by this act appointed, &c. Neither the form or effect of this act was to be diminished or altered in any part or clause thereof, contrary to the true intent or meaning thereof, without the consent of the governor and six parts in seven of the freemen in council and assembly met: it was to continue and be in force till the proprietary should by some instrument under his hand and seal, signify his pleasure to the contrary: and it was provided, that neither this act nor any other should preclude or debar the inhabitants of this province and territories from claiming, having, and enjoying any of the rights, privileges, and immunities, which the said proprietary for himself, his heirs and assigns, did formerly grant, or which of right did belong unto them the said inhabitants by virtue of any law, charter, or grant whatsoever, any thing therein contained to the contrary notwithstanding.

A new application from governor Fletcher for farther assistance, and the report of a committee of the assembly to whom it was referred (urging the infancy, poverty, and incumbered state of the colony in excuse for non-compliance) together with an act for ratifying and confirming the acts and proceedings of the last year's assembly by some persons questioned and misrepresented, are all the *remains* of what passed in the assembly of 1697.

Nor does any thing material occur in the years 1698, 1699, till the arrival of the *proprietary* from England.

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January 25th, 1699-1700, the assembly being convened for the second time, was told by the proprietary in person, that he had so convened them chiefly to reinforce the former laws; or by a new law more rigorously to discourage piracy and forbidden trade: misdemeanors which he said had exposed the government to much odium at home, which he had been much pressed by his superiors to correct, and which he, therefore, pressed most *concernedly* upon them.

Both these points were immediately referred to the consideration of two several committees; and one of their own members, son-in-law of their late lieutenant-governor Markham, proving to be the most obnoxious person on the first of these accounts, they proceeded so far as to commit him, till satisfied by the governor that he had given sufficient security for his appearance to answer what complaints should be brought against him.

They also took care to purge themselves on the head of forbidden or illicit trade, which appears to have been done in so effectual a manner, that the governor himself could not avoid co-operating with the council in their justification. To prove which, his answer to their several addresses (concerning a fit person to be provincial treasurer; cautions to avoid confusion in the next election, which was to be on a new model, as also the expediency of the advice and consent of the council and assembly thereon; and *false information* sent to England against them) here inserted, will be sufficient: to wit,

"First, as to the receiver or treasurer, that he would consider of it, and would take care to please all by his choice of a fit person: as to their address to avoid confusion in the next election, that he consented to the request of the house, and ordered by general consent of council and assembly, minutes to be made in both: that, at the next election, three should be chosen for council in each county, and six for assembly; the election to be on the usual day; but reserving to himself the specification of the term the former were to serve for, which was to be expressed in the writ:

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and that as to the other point of *false information* sent against the colony to England, the unseasonable time of the year would not suffer the merits of the case to be thoroughly discussed, but that all the representatives both of council and assembly, had agreed in drawing up some general defence for the present."

And before their separation it was drawn up and presented to the governor accordingly.

The next general assembly met at the usual time, and was in every respect an extraordinary one: extraordinary for the number of members superadded in the manner just recited: extraordinary for an occasional law they passed at the instance of the governor and council, to prolong the present sessions beyond the time limited by charter: and extraordinary for the debates concerning another new frame of government, which continued through the whole course of it, without producing any satisfactory temperament at last.

Found intractable, after a month's practice, they were dissolved; and in October following, a new assembly was summoned: not as before to consist of thirty-six members, but of twenty-four; that is to say, four instead of six for each county.

The place of meeting was also different; for instead of assembling as usual at Philadelphia, the members were convened at New Castle, perhaps only to gratify the inhabitants of the *territories*, at a time when extraordinary demands were to be made upon them for the gratification of the proprietary governor.

At the opening of this assembly, the governor said, he had called them upon urgent occasions: that they were in want of a frame of government; a body of laws; a settlement of property; and a supply for the support of government: adding, that he would give them all the assistance in his power.

With the body of laws they began, and made a considerable progress in the work: but the frame of government again met with as many difficulties as before. The conditions of union between the *province* and the *territories*, in

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particular, had like to have produced an immediate separation: and the dispute which arose concerning equal privileges or equal voices in the representative, could be no otherwise compromised than by referring the issue to the next general assembly.

The points which more immediately concerned both branches of the legislature, were the settlement of property and the supply. In the latter the governor himself was deeply interested, and almost every land-holder of the colony in the former. These, therefore, were to be first dispatched; and, accordingly, a bill for the effectual establishment and confirmation of the freeholders of both parts of the united colony, their heirs and assigns, in their lands and tenements; together with two others; one for raising of one penny *per* pound, and six shillings *per* head for support of government, &c. and one for granting and raising to the proprietary and governor two thousand pounds, upon the real value of estates real and personal, and another six shillings poll-tax; of which more than a moiety was paid by the county of Philadelphia alone. Nor ought it to be forgotten, that in the preceding session four pence in the pound and twenty-four shillings *per* head had been demanded for these services; and that as they paid by halves, the proprietary performed by halves; as the mention hereafter made of his charter of property will demonstrate.

The same assembly being again convened in August at Philadelphia, in consequence of a letter from his majesty, requiring an aid of three hundred and fifty pounds sterling towards the fortifications to be raised on the frontiers of New York, they excused themselves from complying; urging that the great sums lately assessed upon the colony by way of impost and taxes, over and above the arrears of quit-rents, had rendered them incapable: and these excuses were readily admitted by the government; so that the proprietary interest in this instance undeniably supplanted the royal: and private interest public service.

In September, 1701, the proprietary convened another assembly, consisting of four members for each of the six coun-

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ties, agreeable to the law, for ascertaining the number of members, lately passed at New Castle; and though he had in the last evaded giving a copy of his speech in writing to the house, as not being his usual way, went out of his way for this once to do it now.

Some apology he made for calling them together a month sooner than they would have met of course: assigned as a reason, the necessity he was under, through the endeavours of the enemies to the prosperity of the colony, to go for England, where, taking the advantage of his absence, some had attempted to undermine his government: talked as if the voyage was disagreeable to him; as if the quiet of a wilderness was all his ambition; as if his purpose had been to stay with them always, or at least till he could render every body safe and easy: said his heart was with them, whatever some people might please to think; that no unkindness or disappointment should, with submission to *God's* providence, ever be able to alter his love to the country, and his resolution to return and settle his family and posterity in it, &c. "Think, therefore, (continued he in the most captivating style and manner that ever was made use of) since all men are mortal, of some suitable expedient and provision for your safety as well as in your privileges as property, and you will find me ready to comply with whatsoever may render us happy by a nearer union of our interests. Review again your laws! propose new ones that may better your circumstances; and what you do, do it quickly! remembering that the parliament sits the end of the next month, and that the sooner I am there, the safer I hope we shall all be here."

He then returned to the three hundred and fifty pounds sterling, demanded by the king: imparted to them the happy issue of colonel Fletcher's conferences with the *five nations*; and again recommended unanimity and dispatch, since it might contribute to the disappointment of those who had long sought the ruin of their young country.

The assembly returned a short but affectionate and respectful answer; after which they presented an address to him, consisting of twenty-one articles: the first desiring, that, on

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his departure for England, due care be taken, he might be represented there by persons of integrity and considerable known estates, who might have full power and authority not only to grant and confirm lands, &c. but to compensate *short* and resume *over measure*.—The second, that he would grant them such an instrument as might absolutely secure and defend the freemen of the province, by them represented, in their estates and properties, from himself, his heirs and assigns for ever, or any claiming under him, them, or any of them; as also to clear all Indian purchases and others.—And the last, that the bill of property, passed at Newcastle, might be inserted in the charter, with such amendments as should be agreed on.

To each of the whole twenty-one he returned a special answer; and to the three recited, those that follow. "To the first: I shall appoint those in whom I can confide, whose powers shall be *sufficient* and *public* for the security of all concerned; and I hope they shall be of honest character without just exception, to do that which is right between you and me." ['Tis strange the crown should not be so much as mentioned.] "To the second: much of it is included in my answer to the first; however, I am willing to execute a public instrument or charter to secure you in your properties, according to purchase and the law of property made lately at New Castle, excepting some corrections and amendments absolutely necessary therein: and to the last, I agree that the law of property made at New Castle shall be inserted in the charter with requisite amendments."

How short these expressions fell of his speech is obvious; nor is it any honour to himself or his laws, that the latter stood in need of so many amendments; and that the freemen found reason to think they could not take too many precautions to secure themselves against him.

To these answers of the governor, the assembly returned as many replies; most of them expressing their acceptance and acknowledgments: and the matter of the first being at all times equally reasonable, deserves to be particularly remembered, to wit, "that the commissioners thou art pleased

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to promise, be invested with *full* and *complete power*, and be obliged by some clause in the commission to act without refusal or delay, according to the full and public powers thereof; and that it would please thee to nominate the persons to the assembly."

The governor, on the other hand, whether out of artifice or complaisance is hard to say, would have induced them to name his substitute themselves: but, they as artificially or complaisantly excused themselves; saying, they did not pretend to the knowledge necessary for such a nomination, and that they desired to leave it to the governor's pleasure.

While the charter of privileges was under consideration, the late breach between the members of the province and those of the territory was again opened, and soon grew wider than ever.

The territory men were for obtaining some powers or rights peculiarly favourable to themselves; which the others thinking unreasonable, were not willing to allow: and not being able to carry their point, the members for the territory left the house.

The proprietary interposed his authority to bring about an accommodation; and for the present prevailed. But the same spirit of animosity still remained; and what with the hurry the governor was in to set sail, and what with the warm dispute which arose between him and the assembly concerning the allowance to be made to such as had defective measure in their lands, the remainder of a session, so plausibly opened, and in which the constitution was to be finally settled, was soured with expostulations and reproaches even to the last moment of it: and the governor and his freemen at last parted like people who were equally glad, they had made so much of, and were now to be separated from each other.

And thus the course of time has brought us to that frame or system which, in subordination to the royal charter, is, at present, the rule of government in Pennsylvania.

In May, 1700, the former had been surrendered into the hands of the governor, by six parts in seven of the assem-

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bly, under a solemn promise of restitution, with such alterations and amendments as should be found necessary.

On the 28th of October, 1701, when the governor was so near his departure that it might almost be said he had one foot on board, this promise was made good; the council, the assembly, (the *provincial* part of it, that is to say,) and several of the principal inhabitants of Philadelphia attending.

The *charter* of *privileges* granted by William Penn, Esq. to the inhabitants of Pennsylvania, and *territories*, this important instrument is called; and the main purport of it is as follows, to wit: "that because no people could be truly happy, though under the greatest enjoyment of civil liberties, if abridged of the freedom of their consciences, as to their religious profession and worship, no inhabitant, confessing and acknowleging *one almighty God*, and professing himself obliged to live quiet under the civil government, should be in any case molested or prejudiced in person or estate: that all persons professing to believe in *Jesus Christ* the Saviour of the world, promising, when required, allegiance to the king, and taking certain attests by a certain provincial law provided, should be capable to serve the government either legislatively or executively: that an assembly should be *yearly* chosen by the freemen, to consist of four persons out of each county, of *most note* for *virtue*, *wisdom*, and *ability*; or of a greater number, if the governor and assembly should so agree; upon the first of October for ever, and should sit on the 14th following, with power to chuse a speaker and other their officers, to be judges of the qualifications and elections of their own members, sit upon their own adjournments, appoint committees, prepare bills, impeach criminals, and redress grievances, with all other powers and privileges of an assembly, according to the *rights* of the *freeborn* subjects of England, and the customs observed in any of the king's plantations in America: that two-thirds of the freemen so chosen should have the full power of the whole: that the said freemen in each respective county, at the time and place of meeting for electing

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representatives, might chuse a double number of persons to present to the governor for sheriffs and coroners, to serve for *three* years, if so long they should behave themselves well, out of whom the governor was to nominate *one* for each office, provided his nomination was made the *third* day after presentment, otherwise the person first named to serve; and in case of death or default, the governor to supply the vacancy: that three persons should be nominated by the justices of the respective counties, out of whom the governor was to select *one* to serve for clerk of the peace, within *ten* days, or otherwise the place to be filled by the first so nominated: that the laws of the government should be in this style, viz.—*By the governor, with the consent and approbation of the freemen in general assembly met:* that all criminals should have the same privileges of witnesses and council as their prosecutors: that no person should be obliged to answer any complaint, matter or thing whatsoever, relating to *property*, before the governor and council, or in any other place but in ordinary course of justice, unless in appeals according to law: that the estates of suicides should not be forfeited: that no act, law, or ordinance whatsoever should at any time hereafter, be made or done to alter, change, or diminish the form or effect of this charter, or of any part or clause therein, according to the true intent and meaning thereof, without the consent of the governor for the time being, and six parts in seven of the assembly met: that the first article relating to liberty of conscience should be kept and remain without any alteration inviolably for ever: that the said William Penn, for himself, his heirs and assigns, did thereby solemnly declare, grant, and confirm, that neither he, his heirs or assigns, should procure or do any thing or things whereby the liberties in this charter contained and expressed, nor any part thereof, should be infringed or broken; and, that if any thing should be procured and done by any person or persons contrary thereto, it should be held of no force or effect."

Thus, though much remained of the first institution, much was taken away. The people had no longer the election of

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the council; consequently all who, for the future, were to serve in that capacity, were to be nominated by the governor; consequently were to serve on what terms he pleased. Instead of having but three voices in seventy-two, he was left single in the executive, and at liberty to restrain the legislative by refusing his assent to their bills whenever he thought fit.

On the other hand, the assembly, who at first could not propound laws, though they might amend or reject them, were put in possession of that privilege; and, upon the whole, there was much more room for acknowledgments than complaints.

How much soever the governor had grown upon Mr. Penn, and how much soever his concern for others had worn off, when raised to a sphere above them, it is plain he had not forgotten his own trial, nor the noble commentary upon *Magna Charta*, which, in his tract called, *The people's ancient and just liberties asserted*, he had upon that occasion made public; wherein he says,

"There were but two sorts of government: will and power; or, condition and contract. That the first was a government of men, the second of laws. That universal reason was and ought to be, among rational beings, universal law: that of laws, some were fundamental and immutable; some temporary, made for present convenience, and for convenience to be changed. That the fundamental laws of England were of all laws most abhorrent of will and pleasure: and, that till *houses should stand without their own foundations*, and Englishmen *cease to be* Englishmen, *they could not be cancelled, nor the subjects deprived of the benefit of them.*"

Such as it was, by the freemen of the *province* it was thankfully accepted, but by those of the *territory* unanimously declined; and in this divided condition this new *Lycurgus*, as *Montesquieu* calls him, left them.

Andrew Hamilton, Esq. (not the celebrated barrister of that name) was the person appointed to be his substitute; and the principal effort of his administration was to bring

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about a re-union, which being at length found impracticable (the *territory*-men still persisting in their refusal of the charter) the *province*, in virtue of that charter, claimed a separate representative of their own, which in point of number was fixed at eight members for each of the three counties, and two for the city of Philadelphia, now so constituted by the proprietary's special charter; and after duly qualifying themselves according to law, their first resolution was,

"That the representatives or delegates of the freeholders of this province, according to the powers granted by the proprietary and governor by his charter, dated the eighth day of October, *Anno Domini* 1701, may meet in assembly on the fourteenth day of October, yearly, at Philadelphia, or elsewhere, as shall be appointed by the governor and council for the time being, and so continue on their own adjournments from time to time during the year of their service, as they shall find occasion, or think fit, for preparing of bills, debating thereon, and voting, in order to their being passed into laws; appointing committees, redressing of grievances, and impeaching of criminals, as they shall see meet, in as ample manner as any of the assemblies of this province and territories have hitherto at any time done, or might legally do; as effectually, to all intents and purposes, as any of the neighbouring governments under the crown of England have power to do, according to the rights and privileges of the freeborn subjects of England, keeping to the rules and prescriptions of the parliament of England; as near as may be, respecting the infancy of the government and the capacities of the people: and that the said assembly, as often as the governor for the time being shall require, attend on him, in order to legislation; and to answer all other just ends of assemblies on any emergencies or reasons of state; but shall not be subject at any time to be by him adjourned, prorogued, or dissolved."

This was the state of things when John Evans, Esq. appointed deputy-governor on the death of Mr. Hamilton, arrived in the province, in the beginning of the year 1704.

What his commission and instructions were does not ap-

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pear; but having convened the representatives both of the province and territories, to meet him at the same time in his council-chamber, he affected to be surprised at finding them in separate states; said her majesty considered them as one entire government; and earnestly pressed them both to come to an amicable agreement, not without insinuation, that neither of them would otherwise be in a condition to act at all.

The provincials, in return, intimated, that they should be heartily glad of a farther union with the territories if it could be obtained without prejudice to their constitution or to their charter: said, those of the territory had been the occasion of inserting that clause in their charter by which they had been enabled to act separately: made professions of so much good will and good neighbourhood as might prevent all inconveniencies from their separation: that they had appointed a committee to confer with them, &c.

Conferences were accordingly opened between the two houses, which produced two papers; one from the territory-members, not over ingenuous in its contents, offering now to receive the charter they had till then rejected, and to co-operate with those of the province: and the other, a reply from the provincials, charging them with inconsistency, and declaring, that seeing they were by their formal refusal necessitated to form themselves into a distinct assembly, and were now established accordingly, it was not in their power, as they conceived, without a violation of the charter and trust reposed in them, to entertain any expedient to reconcile their request of an union with the said charter, &c.

Thus all negotiation on this head came to an end, and the provincials were already in disgrace with their new governor, for showing so little regard to his recommendation.

A bill to confirm their charter, and some proceedings to correct the exorbitancies of the proprietary land-office, rendered them yet farther obnoxious; and they also were in their turns exasperated by some intemperate censures passed on their proceedings by one of the governor's council.

Nor was this all; the bill to confirm their charter, &c.

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was sent back, with such amendments as appeared to the house destructive to the present constitution, and for that reason drew from them the following unanimous resolutions and address founded thereon: to wit,

"Resolved, that what is proposed for amendment in the fourth and fifth pages of the bill, will render the said charter useless and ineffectual, and bring an odium upon the proprietary, who granted this instead of other charters, wherein were larger and greater privileges granted to the first adventurers and purchasers of land in this province, which they expected (as it was their undoubted right) to enjoy, as well as the lands they bought: therefore this house cannot admit of those amendments; because they are also destructive to the present constitution, by which the representatives of the free people of this province are now assembled, and are resolved to assert and maintain.

"Resolved, that the method of passing bills by the governor should be adjusted and settled; but whether the governor thinks fit to be in council or not at the passing of bills is submitted to him.

"Resolved, that it is consistent with the late king's letters patent, and the said charter of privileges, that the council (as now chosen) should have a share in the legislation, unless it be when the government is in the council; which this house agrees may be upon the death of the governor, unless other provision be made by the governor in chief; and that a clause may be added to the bill for that purpose."

"To John Evans, Esq. lieutenant-governor, &c.

"The address of the assembly of the said province, sitting at Philadelphia, the twelfth day of August, 1704,

"In all humble manner sheweth,

"That this assembly, having taken into their serious consideration the matters yesterday debated in the conference, relating to the proposed amendments to the bill intituled, *An act, for removing and preventing all questions and disputes concerning the convening and sitting of this assembly*, &c. as also for confirmation of the charter of privileges, do find

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nothing advanced that can reconcile the said amendments to the constitution of our charter; and thereupon do come to this resolve,—That to admit of the power of dissolution, or prorogation in the governor, will manifestly destroy or frustrate the elections settled by the charter, which is a perpetual writ, supported by the legislative authority of this government, and will make way for elections by writs grounded upon a prerogative, or rather a pre-eminence, which the proprietary and his deputy are by charter debarred to resume.

"But to take off the jealousies that may arise upon that part of the charter and bill, which impowers us to sit upon our own adjournments, we are willing to settle and limit the times of adjournment and sitting; and in order thereunto propose to the governor,

"That a clause be added to the aforesaid bill, that the time of the assembly's sitting from the fourteenth of October, yearly, shall not exceed twenty days, unless the governor for the time being and assembly shall agree to a longer time; and the adjournment from that time shall not be less than three months; and so for every time of sitting, and every adjournment within the year, respectively."

The return to this was as follows: viz.

From the governor in council to the assembly.

"The governor upon the best advice he can have upon the point of dissolution and prorogation, cannot be of opinion, that the proprietary has granted away that power; and that therefore it is very unsafe for him to do it. He is very unwilling to have any misunderstanding with the assembly, and shall always be inclinable to make things easy in this, as well as other points; and desires to leave it till further directions can be had from England, to which he thinks it is fit the matter should be referred: and in the mean time recommends to the assembly, to proceed to the dispatch of such other business of importance as lies before them, and the exigencies of the government necessarily require; and to which the opportunity now presented to them ought to invite and encourage them."

And this was the rejoinder of the assembly.

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"To John Evans, Esq. lieutenant-governor, &c.

"The address of the representatives, &c.

"Humbly sheweth,

"That we have taken into our serious consideration thy written message yesterday, relating to the bill for confirmation of the charter of privileges, &c.

"And since the points of dissolution and prorogation are by thee asserted, and the power of this assembly to sit upon their own adjournments, first brought into question by the council in October last, which occasioned us to proceed thus far in explaining and settling our constitution by charter; we conceive we cannot safely let it drop at this time (and remain disputable) without violation of, or injury to, our said present constitution; and consequently it will not be so proper to proceed to the dispatch of other affairs of importance before us, whilst our foundation remains unsettled.

"That allowing what one of the members of council who came with the message was pleased to observe to us, that the proprietary had not given away the power of dissolution, &c. by the charter (*in express words*) yet that it could not be intended to be reserved by him, seems evident to us for the following reasons:

"First, because it could at no time be put in practice, without frustrating the very design of the grant, that we should have an annual standing assembly.

"Secondly, that whenever a dissolution should happen, the governor not being capable to call a new one by writ, as the same member of council rightly observed, the remaining part of that year the province must be destitute of an assembly, and the governor of power to call one, whatever commands from the crown or other extraordinary occasions may happen, unless (as the said member was pleased to observe) by some such means as would need the power of a subsequent assembly, to confirm all that they should have occasion to act or do.

"Thirdly, that the proprietary, in the preamble of this present charter, having been pleased to remember and acknowledge his promise made to the assembly upon the de-

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livery of the former charter, that he would either restore us that or another better adapted to our circumstances: therefore, in assurance of his good and sincere intentions, this charter must be such an one.

"Fourthly, by the former constitution, it is very plain there could be no dissolution; because the same members of assembly, and no others, were liable to be called at any time within the year: and in many years experience, no inconvenience found to arise thereby; nor was that any controverted point between the proprietary and the people, for the rectifying whereof another charter was thought necessary, but other matters not unknown to some of the council.

"Fifthly, and lastly, as a clear proof that the proprietary never intended to reserve the power of dissolution, it may be remembered, that at the close of the sessions of assembly, in the year 1701, when the members being then chosen, by writs, requested a dissolution, the proprietary answered, he would not do it; nor could he answer it to the crown, to leave the province without a standing assembly.

"Upon the whole, we take leave to inform thee, that since this assembly (having long waited in hopes of the passing of this, with other bills lying before thee) is much straitened in time, the season of the year urgently calling most of the members from their attendance; and considering the governor's great indisposition is an obstruction of business; and that another election is now near at hand; that it is the inclination and desire of this house, that all other business might be waived till the meeting of the next assembly; and that in the mean time, the governor would be favourably pleased further to consider the aforesaid points."

Impelled also to discharge their minds in full to the *proprietary* himself, they agreed, *nem. con.* to nine several heads of complaint, which were entered in their minutes as follow, to wit:

"First, that the proprietary at the first settling of this province, promised large privileges, and granted several charters to the people; but by his artifices brought them all at his will and pleasure to defeat.

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"Secondly, that dissolution and prorogation, and calling assemblies by his writs, impowered by his commission to his present deputy, and his orders to his former deputies and commissioners of state, are contrary to the said charters.

"Thirdly, that he has had great sums of money last time he was here, for negotiating the confirmation of our laws, and for making good terms at home for the people of this province, and ease his friends here of oaths, &c. but we find none of our laws are confirmed, nor any relief against oaths; but an order from the queen to require oaths to be administered, whereby the *Quakers* are disabled to sit in courts.

"Fourthly, that there has been no surveyor-general since Edward Pennington died, but great abuses by surveyors, and great extortions by them and the other officers concerned in property, by reason of the proprietary's refusing to pass that law proposed by the assembly, in 1701, to regulate fees, &c.

"Fifthly, that we are like to be remediless in every thing that he hath not particularly granted, or made express provision for; because the present deputy calls it a great hardship upon him, and some of the council urge it as absurd and unreasonable to desire or expect any enlargement or explanation by him, of what the proprietary granted.

"Sixthly, that we are also left remediless in this, that when we are wronged and oppressed about our civil rights, by the proprietary, we cannot have justice done us; because the clerk of the court being of his own putting in, refuses to make out any process; and the justices, by and before whom our causes against him should be tried, are of his own appointment; by means whereof, he becomes judge in his own case, which is against natural equity.

"Seventhly, that sheriffs and other officers of the greatest trust in this government, which the proprietary hath commissionated, being men of no visible estates; and if any of them have given security, it was to himself; so that the people whom these officers have abused and defrauded, can reap no benefit of such security.

"Eighthly, that although the commissioners of property

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have power by their commission to make satisfaction where people have not their full quantity of land according to their purchase, yet they neglect and delay doing right in that behalf.

" Ninthly, that we charge the proprietary not to surrender the government, taking notice of the intimation he had given of making terms, &c. and let him understand how vice grows of late."

And they ordered a representation to be drawn up consequent thereto, and sent by the first opportunity.

Parts of this are already before us; and, as a suggestion was afterwards made, that it contained other matter than was comprehended in the articles, the remainder deserves to be inserted here.

" That upon thy being restored to the government, thou required thy lieutenant to govern us according to charter, which, by reason of Fletcher's interruption, became impossible before thy orders reached us, and so the government fell under great confusion again: nor was the administration of thy propriety much better managed, because thou put some in that commission with whom the rest would not act; and at last the office of property and surveyor-general came to be shut up, and thou kept them so whilst thou sold lands to the value of about two thousand pounds sterling, and gave thy warrants in England for surveying the said land; and also got great tracts of land laid out or secured for thyself and relations, besides several valuable parcels which should have been laid out for the purchase, but were reserved by thy surveyors, whether for thee or themselves we know not: however thou appropriated those lands to thyself, by the name of *concealed lands*, whereas in truth they were concealed from the purchasers, who were to have their lands laid out contiguous one to another, and no vacancies left between them: and thou wast to have only thy tenth, as it fell, according to the concessions thou made with thy first adventurers; and if thou took it not up so, it was thy own (not their) fault; but the other was a manifest injury to many of them as above declared.

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"That upon thy last arrival here, after all the hardships and disappointments we had laboured under, we hoped to enjoy the fruits of thy former promises and engagements; but instead of that, we found thee very full of resentment, and many of our applications and addresses, about our just rights and properties, were answered by recriminations or bitter invectives: and we found that the false insinuations and reproaches, that our adversaries had cast upon the province, with respect to false trade and harbouring pirates, had made so great an impression upon thee, that thou rather believed them than thy honest friends.

"And when thou entered upon legislation, thou wast pleased to repeal all the laws that were made in colonel Fletcher's time, which were approved by the king or queen, as we were informed, and as some of us gathered by the account thou gave of them, viz. that chancellor Somers had sent for thee to know what thou had to object against any of those laws; and if it had not been for thee none of them had passed, or words to that effect: and not only so, but the people being minded to surrender the said second charter, upon thy promise to give them a better in lieu of it; and under pretence of passing an act for confirming and securing their lands, &c. thou obtained liberty to re-survey all the lands in the province, and to bring the people to terms for the overplus; so that by this stratagem, the warrants, surveys, and new patents, cost the people as much, and to some more, than the first purchase of their lands, besides their long attendance upon thy secretary and surveyors to have their business done: but before thou would pass that act, it must be accompanied with an impost or excise, and a two thousand pounds bill besides: and all this thou esteemed but inconsiderable, when thou compared it with the vast charge thou had been at, in the administration and defence of this government, since the year 1682, though we know thy stay here at first coming was not above two years, but went home about the difference between thee and Baltimore, concerning the bounds of the lower counties, and did not return till the year 1699; excusing thy stay by thy service to the nation of

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England in general, and to thy friends there in particular, (as appears by thy letters from time to time) whilst the interest of this province was sinking, which might have been upheld by the many wealthy persons that were inclined to transport themselves here, after the rout of Monmouth, if thee had then came over according to thy repeated promises: and how far thy stay has either effected what thou went about, or contributed to the establishment of the inhabitants here in their just rights and liberties, and properties, we leave thee to demonstrate, and the world to judge: in the mean time, we desire thee to consider better what to place to the account of this province; and do not forget that no part of thy pretended charges was expended in paying some of those who acted under thee, in the administration here, one of whom, viz. Thomas Lloyd, served thee in that station about nine years of thy absence, which thou leaves, it seems, for the country to discharge.

"That after thou had managed these points, and was sent for to England, thou granted the third charter of privileges, by which we are now convened; as also a charter to incorporate the city of Philadelphia, and signed a charter of property, but refused to order thy seal to be affixed thereunto, till thou had advised upon it in England: nevertheless, thou promised under thy hand, that thou would confirm the first part of it relating to titles of land, but thou sent thy order, under hand and seal, dated within six months after, to countermand the sealing thereof.

That after the laws were completed for raising all the said taxes and imposts, thou proposed that if thy friends would give thee a sum of money, thou promised to negociate their affairs at home to the best advantage; and endeavour to procure the approbation of our laws, and a general exemption from oaths: we find that considerable sums have been raised by way of subscription and benevolence, for that service; part thou received before thou went, and more have been received since by thy secretary; but we had no account that our laws are approved, nor had we as much as a letter from thee, nor any other intimation, but by thy secretary's letters,

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which he thought fit to communicate by piece-meals, whereby we understand, thou hast been making terms for thyself and family: and by what we gather, thou hast been upon surrendering the government; nor are thy friends here eased of oaths, but on the contrary, an order from the queen, requiring oaths to be administered to all persons who are willing to take them in all judicatures, whereby the people called Quakers are disabled to sit in courts.

"That by the last charter of privileges, thou established an annual election of representatives for assembly, and that they should continue and sit upon their own adjournments; yet by thy commission to thy present deputy, John Evans, thou did in a direct opposition to the said charter, give him power not only to call assemblies by his writs, but to prorogue and dissolve them as he should see cause; and also reserved to thyself, though in England, thy final assent to all bills passed here by thy deputy: we suppose thou hast not forgot, that what rendered the former charter inconvenient, if not impracticable, was chiefly that colonel Fletcher's interruption had extinguished the rotation of the council, and next to that, the proposals of laws by the council, in presence of the governor; as also the instability of the *lower counties*, which we had before experience of, and whose result was then doubted, as hath since happened: but that annual standing assemblies, liable only to the dismission and call of the governor as occasion required, was never found an inconveniency, nor assigned as a reason for changing the said former for the present charter: and should that of dissolution be introduced, it would frustrate the constitution, because if a dissolution should happen, the province might be a great part of the year without an assembly, and the governor without power to call one, whatsoever commands from the crown, or other occasions may happen; for that the election being fixed by charter, which is in nature of a perpetual writ, and has the authority of a law: if it could be superseded by the governor's writ, which is but an act of state, and merely temporary, it would be of pernicious consequence to the province as well as thyself: and of this thou seemed very

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sensible, when being desired by the assembly, upon the close of the session in the year 1701, to dissolve them, (being then called by writs) thou told them, thou wouldst not do it, for that thou couldst not answer to the crown to leave the province without a standing assembly.

"That as the exemption from any dissolution or prorogation, seems to be an inseparable consequent of thy grant, as well as our constant practice upon the former charter, which this was by thy promise to exceed, so upon an attempt made by the council, to prorogue us in October last, we have thought it our duty to prepare a bill for ascertaining, explaining, and settling our present constitution; which we having presented to thy deputy for his assent, he finding that the power of dissolution and prorogation is not in express words granted away by charter, as also the inconveniency thereof with his said commission, after several conferences thereupon, had with him and his council, he thought fit to advise us to forbear the farther pressing it, till we should hear from thee; therefore he being unwilling to pass the said bill by us judged so necessary, and the very foundation of our present constitution, we could not think it proper to proceed to perfect any other business, whilst that remained unsettled: nor do we suppose any thing will be done in legislation either by the present or succeeding assemblies, till the difficulties we labour under herein be removed, either by thy speedy order, or by thy deputy without it; seeing to proceed upon other matters, would be to raise a superstructure before the foundation were well laid; nor do we look upon it very advisable for us to proceed far in legislation, until thou repeals those parts of thy lieutenant's commission, relating to prorogation and dissolution of assemblies, for the reasons before given; as also concerning thy final assent to laws, which we conceive to be very unreasonable in itself, and a great abuse and violation of our constitution, that thou should offer to put three negatives upon our acts, whereas by our first charter, we had none but that of the crown; and how thou gained another to thyself, we have before shewed thee, but now to bring us under three, seems a contrivance to provoke us to complain to the

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queen, that thou art not effectually represented here, and make that a motive for her to take us under her immediate care and protection, which would make thy surrender in some measure our act, which if thou should do without the consent of the landholders and inhabitants of this province first obtained, would look too much like treachery.

"That it appears, by several petitions now before us, that very great abuses have been and are put upon the inhabitants, and extortions used by thy secretary, surveyors, and other officers, concerned in property as well as courts, which might have been prevented or sooner remedied, had thou been pleased to pass the bill proposed by the assembly in the year 1701 to regulate fees; as also the want of a surveyor-general, which is a great injury and dissatisfaction to the people; as is likewise the want of an established judicature for trials between thee and the people; for if we exhibit our complaints against thee, or those who represent thee in state or property, they must be determined by or before justices of thy own appointment; by which means, thou becomes, in a legal sense, judge in thy own cause, which is against natural equity: therefore, we propose, that a man learned in the laws of England, may be commissioned by the queen, to determine all matters, wherein thy tenants have just cause to complain against thee, thy deputies or commissioners; or else restore the people to the privilege of electing judges, justices, and other officers, according to the direction of the first charter, and intent of the first adventurers, and as the people of New England have by king William's charter: that thy commissioners of property, are very unwilling to make good the deficiencies of those lands thou hast been many years ago paid for (though thou gave them power so to do) and so great is the difficulty and trouble to get satisfaction in this particular, that it is better for one to forego his right, than wait on and attend the commissioners about it, unless the quantity wanting be very great.

"We have many other things to represent to thee as grievances; as thy unheard of abuses to thy purchasers, &c. in

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pretending to give them a town, and then by imposing unconscionable quit-rents, makes it worse by ten-fold than a purchase would have been: also the abuse about the bank, and want of common to the town, and not only so, but the very land the town stands on, is not cleared of the Swedes' claims.

"These are the chief heads, which we thought fit at this time to lay before thee, earnestly intreating thy serious consideration of them, and that thou will now at last, after we have thus long endured and groaned under these hardships (which of late seem to be multiplied upon us) endeavour as far as in thee lies, to retrieve thy credit with us thy poor tenants and fellow-subjects, by redressing these aggrievances, especially in getting our laws confirmed, and also to be eased of oaths, and giving positive orders to thy deputy to unite heartily with us, upon our constitution; and that the charters thou granted us for city and country, may be explained, settled, and confirmed by law; and we further intreat, that effectual care be taken for the suppressing of vice, which, to our great trouble we have to acquaint thee, is more rife and common amongst us since the arrival of thy deputy and son, especially of late, than was ever known before: nor are we capable to suppress it, whilst it is connived at, if not encouraged by authority; the mouths of the more sober magistrates being stopped by the said late order about oaths, and the governor's licensing ordinaries not approven by the magistrates of the city of Philadelphia, and the roast chiefly ruled by such as are none of the most exemplary for virtuous conversation: thy positive orders in the premises, will be absolutely necessary to thy deputy, who thinks it unreasonable, and a great hardship on him, to give sanction to laws explanatory of thy grants, or to do any thing by way of enlargement or confirmation of aught, save what is particularly and expressly granted by thee, it being by some of his council urged as an absurdity in us to expect: and we desire that thou would order the licensing of ordinaries and taverns, to be by the justices, according to thy letter dated in September, 1697; and we hope we need not be more ex-

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press in charging thee, as thou tenders thy own honour and honesty, or the obligations thou art under to thy friends, and particularly thy first purchasers and adventurers into this province, that thou do not surrender the government, whatsoever terms thou may by so doing make for thyself and family, which we shall deem no less than a betraying us, and at least will look like first fleecing, then selling: but rather use thy utmost interest with the queen, to ease us in the premises: and if after thy endeavours used to keep the government, it be *per force* taken from thee, thou will be the clearer in the sight of God, and us the representatives of the people of this thy province, who are thy real friends and well wishers, as we hope is evident in that we have dealt thus plainly with thee."

It was but natural, that such a paper as this should deeply affect those it was levelled against; and that it should operate differently on persons differently made and differently situated.

Those best acquainted with the necessity of keeping the first principles of government ever before their eyes, and the danger of admitting the least departure from them, could not but be pleased with the plain and firm language of this remonstrance: while those apt to be so dazzled with the outside of things, that they were incapable of looking into their contents, were as much softened with concern for the *father* and *founder* of their community, and consequently inclined to think him hardly dealt by in it.

There is something in connexion and dependence which gives a secret bias to all we think and wish, as well as what we say: and in all disputes this must be duly allowed for on both sides.

Seven persons, some of them of the council, made their application by petition to the next assembly for a copy of it, but were flatly refused: and even when the governor himself in very high language required it, they were immoveable as before.

Willing as they might be to reclaim the *proprietary* to a due sense of his first obligations, they might be equally un-

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willing to expose him: and, agreeable to this, the assembly of 1706-7 in one of their remonstrances to the governor say, "that hoping the bill of courts then in dispute would have put an end to some of the grievances they had several years groaned under, they had hitherto forborn *publicly* to remonstrate; chusing rather to provide remedies for things amiss than to complain of them." Some concern they might also be under for themselves; their ascendancy was precarious: it depended on the good will of numbers: and the infirmity of nature above touched upon, might happen to operate more powerfully in the people, than the consideration of justice and safety to themselves and their posterity. The province, at this time, had moreover their reasons on account of oaths, a militia, &c. to apprehend some inconveniency if they fell under the immediate government of the crown; and therefore did not care to break with the proprietary entirely.

Nor was it long before, by partial and indirect practices, such as both influencing and awing the electors (facts publicly charged on the instruments of government by the assembly of 1706-7) that the governor obtained both an assembly and a speaker, almost as complaisant as he could wish. Nor ought it to be forgot, that his successor *Gookin* obtained such another in the year 1710.

In all matters of public concern something personal will interfere. Thus we find during this turbulent period two names frequently occur, as opposites, in principle and purpose, and the oracles of their respective parties, to wit, David Lloyd, speaker of the assembly, and James Logan, secretary to the governor and council.

Logan insults the members of the assembly sent from the house on a message to the governor. The house resent it, complain of it, arraign his conduct in office, and proceed against him as a public delinquent. The governor, on the other hand, conceives an insuperable aversion to the speaker, points him out to the public as an interested, factious, dangerous person, treats him arrogantly at two several confer-

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ences, and complains of the house for not abandoning him to his resentments.

Thus heat kindled heat; animosity excited animosity; and each party resolving to be always in the right, were often both in the wrong.

By the way, this.——And it is necessary still to add, that all this while, the charter of *privileges* and that for the city of Philadelphia, as well as that of property, remained unconfirmed at home; and the people were plainly told by Evans, that, till both the proprietary and his governor were put upon *proper establishments*, they were not to expect the fruits of his favour and protection.

The last of those charters, the said governor, in one of his papers, was pleased to style a tedious bill of property, fitted so entirely to the people's interest, and with so little regard to the *proprietary*, that it seemed strange how reasonable men could, without confusion, offer it: and in another he discourses of it as a project of the *speaker*'s to incorporate the whole province, and take away near the whole power out of the hands of the *proprietary* and *governor*, and lodge it in the people.

To which the assembly replied in the remarkable words following;

'And as to what is said concerning the charter prepared at the proprietary's departure, the draughtsman has assured us, that no project or power is comprised in that charter but what was the proprietary's direction, perused and corrected by his cousin Parmiter, before it was engrossed, and afterwards signed by himself: but whether the proprietary designed thereby to reverse the method of the government according to an English constitution, and establish a republic in its stead, or leave the people to struggle with the *queen's governors*, which he *then* expected would be the consequence of the bill *then* moving in parliament against proprietary governments, the draughtsman cannot tell: but he well remembers, that the proprietary told him, that he held himself obliged to do what he could to confirm his tenants in

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their lands and properties, and give them all the[s] powers he could, as he was lord of this seignory, and much more to that effect.'

And now, to finish on the head of the representation, which throws so much light on the first foundation of this colony, what afterwards passed in the assembly concerning it, candour requires should here be subjoined.

'But what, says governor Evans, I must not be silent in, is, that he (the proprietary) highly resents that heinous indignity and most scandalous treatment he has met with in the letter, directed not only to himself, but also to be shewn to some other persons disaffected to him, in the name of the assembly and people of this province, of which I have formerly demanded a copy, but was then denied it, under pretence (when it was too late) that it should be recalled: if that letter was the act of the people, truly represented, he thinks such proceedings are sufficient to cancel all obligations of care over them: but if done by particular persons only, and it is an imposture in the name of the whole, he expects the country will purge themselves, and take care that due satisfaction be given him.'

The reader will observe that the letter is not complained of as scandalous, because of its *falsehood*, but because of its *freedom*, in which it must be understood consists the indignity.

And the assembly's reply was as follows:

'As to the representation or letter sent to the proprietary by order, or in the name of the *former* assembly, which he takes, it seems, as an indignity, and resents it accordingly; it not having been done by this house, but being the act (or in the name) of a *former*, as we are not intitled to the affront,

[s] "William Biles acquainted this house, that Nathaniel Puckle had a letter from the *proprietary* to be communicated to several persons here, encouraging them to *insist* upon the privileges of their charter and laws, and not tamely give them up; and instanced what advantage it has been to the people of Rhode-Island, Connecticut, and other proprietary governments, to assert their rights," &c. *Votes of Assembly*, for August 21, 1704.

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if any be, neither are we concerned in answering it: our part is only to lament (as we really do) that there should be *true* occasion for such representation; or, if none, that it should be offered to our proprietary, whom we both love and honour; and, therefore, we hope his obligations of care over us and the people of this province by no such means shall be cancelled.'

That this man's government should be one continued broil, from the beginning of it to the end, is proof sufficient, that Mr. Penn left his *frame* at least in a very imperfect state.

Nor were the people themselves insensible of it, nor more backward to declare their sentiments concerning it, than of the other parts of his conduct.

Evans, for example, having made use of the following clause in one of his papers to the assembly, to wit;

'The governor, at his arrival, found the people possessed of a charter, by virtue of which the present assembly now sits, containing the *frame* of government, settled solemnly, as he has reason to believe, between the proprietary and the people, because by the subscription, it is said to be *thankfully* accepted of by the assembly then sitting, and was signed not only by the proprietary, but by the speaker of the assembly, in the name of all those of the province (as it is affirmed) who were then present, and unanimously consenting, and is farther witnessed by the council: this, therefore, ought fully to conclude: for if the people could allege, that any thing more was their due, it ought at that time to have been fixed and settled; the assembly then sitting, as the governor is informed, having fully considered and debated it; or if any demands, which it is imagined might further have been made, were not then granted, the governor cannot think it proper for him to intermeddle or to concern himself farther than by virtue of the king's letters patent, to the proprietary, and the proprietary's commission to him, with her majesty's royal approbation, to govern according to that charter, and the laws in force, &c.

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The assembly thus replied.

'As to the present charter, which the governor found nl being at his arrival, though it be *far short* of an English constitution, yet even that has been *violated* by several inroads made upon it: and if the governor cannot grant the just and reasonable demands of the people's representatives agreeable with an English establishment, there is cause to conclude, that the proprietary is not *fully* represented here: and, however the charter was received, yet it was not with such unanimity as is alleged, because *diminutive* of former privileges; neither was it prepared by the house of representatives, but done in *great haste*.'——

'We are not striving for grants of power, but what are essential to the administration of[4] justice, and agreeable to an English constitution: and if we have not been in possession of this these twenty-four years, we know where to place the fault, and shall only say, it is high time we were in the enjoyment of our rights.'

And lastly, the said assembly having drawn up two several remonstrances to the proprietary, reciting the particulars of their grievances and complaints against the said governor, took occasion in the last of them, dated June 10, 1707, to express themselves as follows.

'We, and the people we represent, being still grieved and oppressed with the mal-administration and practices of thy deputy, and the ill carriage, unwarrantable proceedings, and great exactions of thy secretary, are like to be destroyed by the great injustice and arbitrary oppressions of thy evil ministers, who abuse the powers given thee by the crown, and we suppose have too much prevailed upon thee to leave us hitherto without relief.

'That the assembly which sat here on the 26th of the sixth month, 1704, agreed upon certain heads or particulars, which, according to the order of that day, were drawn up in a representation, and was signed by the speaker, and sent thee

[4] The governor had rejected the *bill* proposed by the assembly for establishing courts of justice, &c. and had done it by an *ordinance* of his own.

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by a passenger in John Guy's brigantine, who was taken into France, from whence the same representation was conveyed to thy hands; whereby thou art put in mind, upon what score the purchasers and first adventurers embarked with thee to plant this colony, and what grants and promises thou made, and the assurance and expectations, thou gave them and the rest of the settlers and inhabitants of this province, to enjoy the privileges derived from thy own grants and concessions, *besides* the rights and freedoms of England: but how they were disappointed in several respects, appears, in part, by the said representation, to which we refer; and become supplicants for relief, not only in matters *there* complained of which are not yet redressed, but also in things then omitted, as well as what have been lately transacted, to the geievous oppression of the queen's subjects, and public scandal of this government.'

'We are much concerned, that thou conceived such displeasure as thou did against that assembly, and not in all this time vouchsafe to shew thy readiness to rectify those things which they made appear were amiss: nor hast thou shewed thy particular objections to the bills, which, with great care and charge, were then prepared, for confirming thy charters to this city and country, respecting both privileges and property, and for settling the affirmation instead of oaths: but on the other hand, we found, to our great disappointment, that thou gave credit to wrong insinuations against them, as appears by thy letter from Hyde-Park, dated the twenty-sixth of the twelfth month, 1704-5, wherein thou treated some particulars very unfriendly, and without any just grounds blamed the people's representatives, who, we perceive by their proceedings, were ready to support the government under thy administration, and desired nothing but to have their just rights, privileges, and properties confirmed, the judicatories regularly established, the magistracy supplied with men of virtue and probity, and the whole constitution so framed, that the people called Quakers might have a share with other christian people in the government, which thou always gave them an expectation of, and which they justly claim as a

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point of right, not for the sake of honour, but for the suppressing of vice, &c.'

To wade through the whole of this provincial controversy which, at several reprisals, lasted till Gookin was superseded in the year 1717, and replaced by William Keith, Esq. (afterward Sir William Keith, Bart.) would be a task of great prolixity, and what consequently might prove as tedious to the reader as laborious to the writer.

Enough has been recited, to shew upon what terms Mr. Penn was first followed by his flock, as a kind of patriarch, to Pennsylvania; as also, what failures in his conduct towards them were complained of by them; and as to the conduct of the several assemblies, which, in the several periods of this interval, maintained this controversy, a bare perusal of their proceedings is in general sufficient for their justification.

Men they were; passions and interests they consequently had; and, if they were sometimes carried away a little too far by them, it is obvious the passions and interests of others worked up the ferment first, and never relented to the last.

It is true, an over rigid performance of conditions is not to be expected of government, and seldom can be exacted from it: but then if the representative part is not tenacious, almost to a fault, of the rights and claims of the people, they will in a course of time lose their very pretensions to them.

Against Logan, the proprietary's minister, stands upon record, still unanswered, thirteen articles of malversation, by way of impeachment, which the governor (Evans) found means to evade, against the repeated offers of the assembly to produce their witnesses and fasten their proofs upon him: and against the governor himself, twelve in the shape of remonstrances, which argue him loose in principle, arbitrary in disposition, and scandalous in his private life and deportment.

So unpopular was he, that an unanimous vote of thanks to the proprietary was passed on his being removed, almost before his face, for he was still a resident among them: and as

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he had been Logan's screen, so his successor, Gookin, was little better than Logan's tool. The first had the name; the latter the power; and by the help of the council, spurred him on, or reined him in, as he pleased.

Both were necessitous, consequently craving alike; and having each considered himself first, and the proprietary next, had little consideration left for the crown, and none at all for the people.

If Evans adventured to act in many respects as if there was neither charter nor assembly, or, rather, as if he was authorised by his commission to do what he pleased in contempt of both, (as appears by his arbitrary dismission of one assembly, merely because they could not be brought to obey his dictature) Gookin after his example, and at the instance of Logan, declared another assembly to be no assembly, and refused to hold any further correspondence with them: and yet when he was on the point of being recalled, he was both mean enough and desperate enough to convene the assembly, purposely to make them this laconic proposition, viz. "That, for the little time he had to stay, he was ready to do the country all the service he could:—and that they might be their *own carvers*, in case they would in some measure provide for his going back to seek another employment." Of which, however, they made no other use than to gratify him with a present of two hundred pounds.

Lastly, that the reader may have a general idea of those assemblies, represented in proprietary language as so refractory and turbulent, so pragmatical and assuming, let him accept of a passage out of one of their own papers to governor Evans, in which they thus characterise themselves. 'And though we are mean men, and represent a poor colony, yet as we are the immediate grantees of one branch of the legislative authority of this province, (*which we would leave to our posterity as free as it was granted*) we ought to have been, and do expect to be more civilly treated by him that claims the other branch of the same authority, and under the same royal grant, and has his *support* from us and the people we represent.

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It is by this time apparent enough, that though the *proprietary* and popular interests spring from one and the same source, they divide as they descend: that every proprietary governor, for this reason, has two masters; one who gives him his commission, and one who gives him his pay: that he is on his good behaviour to both: that if he does not fulfil with rigour every proprietary command, however injurious to the province or offensive to the assembly, he is recalled: that if he does not gratify the assembly in what they think they have a right to claim, he is certain to live in perpetual broils, though uncertain whether he shall be enabled to live at all: and that, upon the whole, to be a governor upon such terms, is to be the most wretched thing alive.

Sir William Keith could not be ignorant of this: and therefore, however he was instructed here at home, either by his principal or the lords of trade, resolved to govern himself when he came upon the spot, by the governing interest there: so that his administration was wholly different from that of his two predecessors.

With as particular an eye to his own particular emolument, he did indeed make his first address to the assembly: but then all he said was in popular language: he did not so much as name the *proprietary:* and his hints were such as could not be misunderstood, that in case they would pay him well, he would serve them well.

The assembly, on the other hand, had sense enough to discern, that this was all which could be required of a man who had a family to maintain with some degree of splendor, and who was no richer than plantation governors usually are: in short, they believed in him, were liberal to him, and the returns he annually made them were suitable to the confidence they placed in him: so that the proper operation of one master-spring kept the whole machine of government, for a considerable period of time, in a more consistent motion than it had ever known before.

Of all political cements reciprocal interest is the strongest; and the subject's money is never so well disposed of, as in the maintenance of order and tranquillity, and the purchase

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of good laws; for which felicities Keith's administration was deservedly memorable.

Under proprietary displeasure, however, by the resentment and artifice of Logan, the proprietary secretary, excited and aggravated by some neglects and mistakes of his own, he sunk at last; after what manner, it may not be altogether unuseful to intimate.

When Mr. Penn died in the year 1718, he left his hold of the province (which was much incumbered, by a mortgage on one hand, and by a transfer of it to the crown for ten thousand pounds, of which he had received two thousand pounds, on the other) in the hands of trustees, namely, his widow, Henry Gouldney, Joshua Gee, and his all-sufficient secretary Logan.

The difficulties thus resting in his family were very well known in the province; notwithstanding which the inhabitants, satisfied with their governor, persevered in all duties to them; nor seemed to entertain a thought to their disadvantage.

Logan and his creatures were the only malcontents; and why they were so will be made sufficiently obvious. The governor and assembly in concurrence, could govern the province without his participation; so he remained without importance to either, till this share of the trust enabled him to interpose, and intitled him to be heard, at the expense of both.

In the second year after Keith's arrival, Logan had divided his council against him, and carried off a majority; and ever after had represented him in his dispatches, as having substituted his own interest in the place of the proprietary's, and confederated with the assembly to make both branches of the legislature equally subservient to popular purposes.

Subtle, however, as he was, and practised in all the arts of political disguise, he could not long conceal himself from the penetration of Keith. Thus having been detected (as Keith says[5]) in aggravating, and even in altering certain

[5] Governor Keith's letter to the widow Penn, September 24, 1724.

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minutes of the council-proceedings for the purposes before specified; and, in full confidence of proprietary protection, defending himself therein, with much personal abuse against the governor; the latter dismissed him from his post as secretary, and substituted another in his place.

With this, and a variety of other complaints, all of the same tendency, Logan therefore made a voyage to England, soon after he became a trustee, and there made his court so effectually to the widow, &c. that they freighted him back with letters of reproof, and *private* instructions to Keith, not only to reinstate him, but in effect, to be governed by him, as implicitly as Gookin had been governed before.

Keith, on the other hand, being a man of too much spirit to submit to such treatment, and presuming beside, that his services to and interest in the colony, and his connexions with the most considerable men in it, would uphold him against all opposition whatsoever, communicated all to the assembly, together with his own answers: and this he thought was the more incumbent on him, because Logan had already been making his efforts to stir up a party against him.

Logan, upon this, commences advocate in form for the proprietary interest; presents a written plea on its behalf to the assembly, justifying therein all the restrictions laid on the governor by those instructions, (which will be in the next session explained) and whether by chance or design, it is hard to pronounce, suffered the secret of the quarrel to escape, by insinuating, that the *proprietary*, during his absence, had not received *one penny* either to himself or his family from the *government*, whereas others had received *large sums*.

The assembly, however, not being in a humour to pay two government subsidies instead of one, when exempted by the original article of *quit-rents* from the obligation of paying *any*, did not so much as take notice of this point; but on the contrary, closing with the governor, desired his concurrence with them, and offered their concurrence to him, in withstanding whatever was in the said instructions contained, repugnant to their charter, or inconsistent with their privileges.

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The governor himself also became an advocate for the province, and laid before the assembly a written defence of the constitution thereof, as well as of the late *proprietary*'s character, in answer to Logan's memorial; and the session was concluded most triumphantly on the governor's side: for the house not only agreed to a remonstrance, in answer to the widow Penn's *private* instructions, as they were called; but moreover gratified him for his extraordinary services with a thousand pounds.

The controversy continued notwithstanding; and both parties bestirred themselves equally in order to make proselytes. Logan seemed more humble than before, but never was more confident. Keith never was so much in pain for his own stability, and yet never seemed to have less apprehensions. In proportion, however, as it became more and more probable, that he would be laid aside, he became less and less considered; and a breach between him and the speaker Lloyd, so often mentioned, and who had, even in print, acted the part of a second to him, became as fatal to him as it was fortunate to Logan.

When the next assembly met, it soon appeared, that though the governor used the same patriot-language to it, he had not the same ascendancy over it. Two several negatives were put, upon two several motions to furnish him, the first with six hundred pounds, the second with five hundred pounds, towards his support. No more than four hundred pounds could be obtained: and, notwithstanding all engines and all devices were employed, no farther compensation could be procured for him.

It is equally the lot of this nation to be more specious than virtuous, more splendid than consistent, and to abound more in politicians than philosophers. Keith had more of the former than the latter in his composition, though he was neither in any eminent degree. A politician would not have furnished his adversaries with a plea to excuse his removal, by communicating a private paper to a popular assembly. A philosopher, governed by principle, and proof against passion,

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would not have been in the power of any issue whatsoever: and if the assembly had been capable of consistency, they would have set a lustre on his dismission, by accompanying it with all the *douceurs* in the power of the province to have heaped upon him, that other governors might have thought it worth their while to proceed on his plan.

Instead of which, on the first intelligence of a new governor, which was as carefully imparted to *them*, as concealed from *him*, they even affected to procrastinate the business of the province; and when upbraided by Keith with this backwardness, and, not without some mixture of indignation, required to give the public a testimonial of his administration, they proceeded in it, as if rather constrained than inclined; and at last took care to say as little as possible, though they had room to say so much.

In short, after a nine years' administration, unembarrassed with any one breach between the governor and assembly; and, as acknowledged by the latter, productive of much positive good to the province, they parted with reciprocal coldness, if not disgust: Keith disdaining to follow Gookin's example in desiring a benevolence; and they not having consideration enough left for him to offer it.

There is no man, long or much conversant in this overgrown city, who hath not often found himself in company with the shades of departed governors, doomed to wander out the residue of their lives, full of the agonizing remembrance of their passed eminence, and the severe sensation of present neglect.

Sir William Keith, upon his[6] return, was added to this unfortunate list; concerning whom the least that can be said, is, that either none but men of fortune should be appointed to serve in such dignified offices: or otherwise, that, for the honour of government itself, such as are recalled without any

[6] He staid in Philadelphia some time after his being displaced; and, seduced by his resentments, condescended to act a part neither becoming nor prudent: procuring himself to be returned as an assembly-man, and taking all the measures in his power to divide the province, embarrass the governor, and distress the *proprietaries*.

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notorious imputation on their conduct, should be preserved from that wretchedness and contempt which they have been but too frequently permitted to fall into, for want even of a proper subsistence.

The reader is desired to pardon this digression, if it is one. It was necessary to shew, that the province of Pennsylvania, when well governed, is easily governed; and that which ever branch of the legislature inflames the proprietary jealousy, or interferes with the proprietary interest, the result is the same: the obnoxious assembly is reprimanded and vilified, and, as before observed, the obnoxious governor is recalled.

So that, unless the province stoops to be loaded with a triple tier of subsidies; namely, one for the public service, ordinary and extraordinary, one for the governor's annual appointments, and one for the gratification of the proprietaries and their creatures, it seems reasonable to conclude it is never to enjoy any established state of tranquillity.

And now, in addition to the points of proprietary incroachment and proprietary resentment already mentioned, we are naturally led to such other points of controversy, as at various times have arisen for want of sufficient foresight and sufficient preventatives; and of which several are unhappily in agitation at this very day.

It cannot but be recollected, that Mr. Penn, in his discourse with his joint adventurers, concerning reserved rents for the support of government, made a remarkable distinction between his two capacities of *proprietary* and *governor:* and from hence, as well as from the nature of the trust, it must obviously follow, that when he withdrew himself to England, and transferred the government to his deputies, those deputies could not but be possessed of all the powers originally vested, by the crown, in him. Adroit as he was at refinements, he could not do by his trust as he did by his land;—withhold a reserve of power, and, like the drunken sailors in the play, appoint a viceroy, and retain a power to be viceroy over him.

And yet even Mr. Penn himself, in his commission to Evans, a man, as we have seen, determined enough to push

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any proprietary, and defeat any popular, points whatsoever, could venture to slip the following clause into his commission, to wit: 'saving always to me and my heirs, our *final assent* to all such bills as thou shalt pass into laws in the said government, &c.'

The assembly, however, to whom this commission was communicated, were shrewd enough to start the following doubt upon it, and to send it by way of message to the council, to wit: 'whether the said vote is void in itself, and does not vacate the rest of the said commission or render it invalid?' And the council, with the proprietary's eldest son at the head, and secretary Logan at the rear of it, were so startled at it, that, in order to evade the last inference, they found themselves under a necessity to return the following answer.

'We of the council, whose names are hereunto subscribed, are of opinion, that the said *saving* is *void in itself:* and that those bills which the present lieutenant-governor shall think fit to pass into laws, and cause the proprietary's great seal to be affixed thereunto, cannot afterwards be vacated or annulled by the proprietary, without assent of the assembly of this province.'

The next piece of practice, to answer the same purpose, that was found out, was to impose certain conditions of government on the deputy, under the penalty of a certain sum. This was first submitted to by Keith, and has been a rule to all his successors, with this difference, that whereas the penalty exacted from him was but one thousand pounds sterling, it has been since raised to two or three thousand pounds.

If ever the case of this colony should come before parliament, which is not altogether improbable, no doubt these conditions will be called for; and if they should then be found irreconcilable with the charter, and a check upon the legislative, altogether unconstitutional and illegal, the wisdom of the nation will, no doubt, pronounce upon such a trespass according to the heinousness of it.

Again: the widow Penn, in her private instructions to sir William Keith, having admitted and complained, that

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the powers of legislature were lodged in the governor and assembly, without *so much* as a *negative* reserved to the *proprietary* when absent, proceeds to avow, that it was never *intended* [by the proprietary must be understood] the said governor and assembly should have the exercise of these powers; as also to pronounce it a *dangerous invention of* Keith's, to enact laws in conjunction with the assembly, and transmit them directly to the king's ministers without any *other* check; and then, after thus arrogantly interposing between the king and his lieges of this province, clenches the whole with the following injuction: 'therefore, for remedy of this *grievance*, it is required, that thou advise with the council, upon every meeting or adjournment of the assembly, which requires any deliberation on the governor's part: that thou make no speech, nor send any written message to the assembly, but what shall be first approved in council; that thou receive all messages from them in council, if practicable at the time; and shall return no bills to the house, without the advice of the council; nor pass any whatsoever into a law, without the consent of a majority of that board, &c.'

What, therefore, the governor's bond had not been sufficient to obtain, this new expedient was to extort. If the governor would not act as required, he was thus to be disabled from acting at all: and after so many various frames of government had been granted and regranted, proprietary *will* and *pleasure* was to be the last resort of all.

In vain both governor and assembly freely and fully remonstrated against such an innovation, in a government supposed to be guarded by charter against all innovations whatsoever; more especially such as were neither consistent with the rights of the people, the powers already vested in the governor, nor the respect due to the crown.

Logan discovered the assembly were not authorised by *charter* to *advise*, though they were to enact; because the word *advice* was not to be found in that *last* given to them: that governors were not to be trusted to act without advice; consequently the said expedient to bridle them was a good

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one; and if we may judge by events, his sophistry has given the law ever since.

From what has been thus far recited, it is obvious, that the proprietary of Pennsylvania was of too little consideration here at home, to be of much use to the province either as a protector or advocate; and yet, that he was *there* so much above the level of his freemen and tenants, that, even in their legislative capacity confederated with the governor, they could hardly maintain their rights they were so many ways intitled to, against the artifices and encroachments of his emissaries.

As *lord* of the *soil*, is the light he is next to be considered in. The charter Mr. Penn obtained of the crown, comprehended a far greater extent of territory, than he thought fit to take up of the Indians at his first purchase.

And even in the very infancy of his colony, it was by act of assembly inconsiderately, because unconditionally, provided, that in case any person should presume to buy land of the natives, within the limits of the province, &c. without leave first obtained from the proprietary, the bargain and purchase so made should be void.

Rendered thus the only purchaser, he reckoned he might always accommodate himself at the Indian market, on the same terms, with what quantity of land he pleased; and till the stock in hand, or such parts of it as he thought fit to dispose of, were in a fair way of being sold off, he did not think it for his interest to incumber himself with more.

This happened sooner than he foresaw; though it must be acknowleged the founders of few cities appear to have had more foresight than he. The growth of his colony exceeded his most sanguine expectations; and, when successive new purchases came to be made, an inconvenience by degrees became manifest, which, perhaps, had not been thought of before, or if thought of, had not been guarded against.

Men who want a present convenience must not be oversolicitous about future contingencies; and, in general, we

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chuse to be blind to such objects as we fear we have not strength enough to remove: he that is too much of a huckster often loses a bargain; as he that is too little so, often purchases a law-suit.

It was no hard matter to induce a belief, that occasional treaties with the Indians, under the pretence of keeping up the same brotherly correspondence which had been at first established with them, was a necessary measure of government; nor to prevail with the province, while this was understood to be the sole consideration, to bear the expense of them.

But when it appeared, as in the course of time was unavoidable, that a treaty and a purchase went on together; that the former was a shoeing-horn for the latter; that the governor only made the compliments, and the assembly the presents, &c. it could not but appear also, that there must be somewhat unfair in a procedure where one paid all the cost, and the other ingrossed all the profit; and that it was high time to put some stop to a practice so injurious to their understandings.

It is not indeed necessary in private life to bargain, that those who purchase for their own use and advantage, should pay the price out of their own pockets; but in public it is.

Persons who stand on the same ground will insist on the same rights; and it is matter of wonder, when any one party discovers folly or insolence enough to demand or expect any pre-eminence over the other.

Whereas prerogative admits of no equality; and pre-supposes, that difference of place alters the use of language, and even the very nature of things.

Hence, though protection is the reason, and, consequently, should be the end of government, we ought to be as much upon our guard against our protectors as against our enemies.

Power, like water, is ever working its own way; and wherever it can find or make an opening, is altogether as prone to overflow whatever is subject to it.

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And though matter of right overlooked, may be reclaimed and re-assumed at any time, it cannot be too soon reclaimed and re-assumed.

That assembly then, which first discovered this lapse, or which, at the requisition of their constituents, first endeavoured to retrieve it, did no more than their duty; and the precedent they set cannot be too closely followed.

Again: the distinction made by Mr. Penn in the case of the quit-rents, between his two capacities of *governor* and *proprietary*, had an use, which even he, with all his shrewdness, did not perhaps advert to, when it was made; or at least expect it would be adverted to by any body else.

For the support of the governor and government, it must be recollected they were submitted to; for the support of the proprietary, when absent from his government, and when the government charge was otherwise supported, they were paid: and as he and his agents went on, not only to reserve such rents out of all the parcels of lands they disposed of, but even to rise in their demands, as the value of lands rose; so it could not but follow, that in process of time these quit-rents would of themselves become an immense estate.

When, therefore, the proprietary no longer acted as governor, nor even resided in the province, nor expended a fifth of his income there, could it be supposed, that this estate, thus obtained and thus perverted from its original purpose, should not be liable, in common with all other estates, to contribute to those charges it was first in the intire allotted for, and the whole amount of which it so many fold exceeds?

No property in England is tax-free: no difference in the amount, or value of property, makes any difference in the duty of subjects: and nothing is more consonant to reason, than that he who possesses most, should contribute most to the public service.

And yet, for want of a specific clause to declare their property taxable, the present proprietaries insist on having it exempted from every public obligation, and upon charging the difference on the public, who, it cannot be too often re-

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membered, gave it in the first instance as the price of an *exemption* from all other taxes.

Clear, however, it will be made to every unprejudiced mind, that such a specific clause neither is nor ever was necessary; and, that in virtue of the inherent right, as well as the power and authority reposed in the freemen to tax themselves by ways and means of their own providing, all the property of the province lies indiscriminately at their discretion, subject to an equal taxation.

The *paper currency* of the province is next to be mentioned; and as that was out of prospect while the several *frames* of government were under consideration, it could not be comprehended in any of them.

The currency then was, and so continued to be, for many years after, gold and silver of any species by weight; at first in so irregular a manner, and at such uncertain rates, as gave the crafty many opportunities to prey upon the ignorant and necessitous; consequently was productive of much contention, embarrassment, and confusion.

By royal proclamation, in the fourth of queen Anne, the rates and values of all foreign coins current in the English colonies were limited and ascertained; and, in her sixth, the contents of the said proclamation were enacted into a law, which is still in force.

But the annual influx of these foreign coins, through what channel soever, or from whatsoever source, by no means answered the demands of an annual issue.

From England came all the manufactures consumed in the plantations; and all the returns they could make by their commodities sent thither directly, or the product of them at other markets, fell far short of the balance growing against them.

The defect, therefore, was to be made good in gold and silver, and was so as long and as often as any could be found. Every colony, in its turn, was, consequently, drained of its specie; and, as it is an impossibility known and avowed, for any trading community to subsist without some medium of circulation, every colony in its turn was obliged to have re-

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course to the same expedient of uttering provincial bills of credit, and making them answer, as far as possible, all the topical purposes of gold and silver; by which their several capitals were enlarged; the gold and silver became commodities that could be spared for exportation; and the merchants at home were paid in that gold and silver, without any provincial detriment.

Pennsylvania, however, if not the very last, was one of the last, which gave into it. It was not till the year 1722 (Keith, governor) that they made their first experiment; and even then they proceeded with the utmost caution and circumspection, in every step they took.

Knowing, for example, that the danger of depreciation was the only danger they had to guard against, and that nothing but an over quantity, defect of solid security, and of proper provision to recall and cancel them, could create that danger, they issued at first but fifteen thousand pounds: they made no loans but on land-security or plate deposited in the loan-office: they obliged the borrowers to pay five *per cent.* for the sums they took up: they made their bills a tender in all payments of all kinds, on pain of vacating the debt, or forfeiting the commodity: to keep them as near as possible on a par with gold and silver, they imposed sufficient penalties on all those who presumed to make any bargain or sale upon cheaper terms, in case of being paid in the one preferable to the other: they provided for the gradual reduction of them, by enacting, that one eighth of the principal, as well as the whole interest money should be annually paid. And it was not till they were convinced by experience of the utility of the measure, and the insufficiency of the sum, that they adventured to issue thirty thousand pounds more.

Such, moreover, was the benefit apparently resulting from it; such the inconveniency apprehended by every body from the scarcity of money sure to follow a too precipitate discharge of the loans; and such the apparent growth of the province during this interval, that, in the year 1729 (Patrick Gordon, governor) it was thought adviseable to encrease the provincial capital by a new emission of bills, to the amount

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of thirty thousand pounds, and to render the repayments still easier to the borrowers, by reducing them to one sixteenth a year.

Again: in the year 1739 (George Thomas, governor) occasion was taken from the discoveries repeatedly made, that these provincial-bills had been counterfeited, not only to call them all in, in order to their being replaced with others of a new impression, &c. but also for the reasons before given, to issue the further sums of eleven thousand one hundred and ten pounds five shillings, (which, added to the sums already in circulation, made their whole capital amount to eighty thousand pounds) to be current for sixteen years.

Lastly: finding, that the like, or a greater sum, in case the province should grow still greater, would in all probability be always necessary, the assembly moreover provided, that so fast as any of the former borrowers should repay their provincial-money, the trustees of the loan-office might reemit the same sums during the said term of sixteen years, on the same conditions, either to them or others, without any new authority for that purpose.

And, upon the whole, it is to be observed, that the assembly, in establishing this paper currency, in taking upon themselves, as representatives of the province, to appoint the trustees and other officers charged with the administration of it; in providing that the said trustees and officer should be responsible to the province for their conduct in it; and in reserving to the assembly, for the time being, the disposition and application of the annual product, met not with any such objection from their governors, or the proprietaries, or the ministry here at home, as could excite the least apprehension of any such contest, as might either embroil the province, affect the interest, or incommode the government of it. [z]

It is true, the proprietaries and their agents did, from the beginning, discover a repugnance to this measure, till they found themselves considered in it: like the snail with his horns, they had no sensations for the province, but what reached them through the nerves of power and profit. Profit,

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though ranked last, they consulted first; and when possessed of one point, they thought they might wrangle more successfully for the other.

If the widow Penn acquiesced in the paper-money acts passed by Keith, she reprimanded him for passing them; and in a manner forbid him to pass any more.

Gordon (Keith's successor) having over and over again acknowledged his *conviction* of the *conveniencies* arising to the province from a reasonable increase of their paper currency, gave the assembly to understand, in so many words, that nothing but the gratification of the proprietaries in the affair of their *quit-rents*, would prevent the opposition they were otherwise to expect to the act then before them in England.

By special contract with the several purchasers, these quit-rents of theirs were to be paid in *sterling money;* and, as it was impossible, by any provision whatsoever, to make the provincial currency answer the universal purposes of gold and silver, so no provision could hinder these metals from having the preference of paper. To convert paper into specie or bullion could not of course but be attended with some cost; and hence the proprietary-remittances could not but come shorter home. When, therefore, by the eighty-thousand pounds act, paper was to become the provincial establishment, they would not allow their share of the provincial advantage resulting from it (which was, at least, equal to that of the province, as will hereafter become apparent) to be what it really was, an adequate consideration, but insisted, not only on having the difference between paper and specie or bullion made up to them, and that the difference of exchange should be made up to them also; or, in other words, that the pounds sterling due to them in Pennsylvania, should be paid to them *nett* in England.

In short, the sum of one thousand two hundred pounds, was in this manner extorted from the province, together with an annuity of one hundred and thirty pounds, to continue during the circulation of those bills; which will serve to shew, at least, that the province could not be more stubborn,

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upon other occasions, than the proprietaries were selfish on this.

There remains yet another topic to be touched upon, which will require a more tender consideratiou from the reader than perhaps it may always find.

Mr. Penn and his followers were of that sect, who call themselves by the amiable and levelling name of *Friends*; and who, having been at first opprobriously called by that of *Quakers*, have been forced, by the joint tyranny of imposition and custom, to answer to it ever since.

Of these, the majority carried along with them a scruple better accommodated to the forming of a society and preserving it in peace, than to the protecting it from those insults and depredations which pride and lust of dominion have at all periods committed on their weaker neighbours; and from the visitation of which, no system of politics, morals, or religion, hath as yet been able to preserve mankind.

All their views, purposes, and endeavours were narrowed, therefore, to the forms and uses of civil life; and to link the several parts of their own little community in the most expedient manner together.

Nor, indeed, had they at that time any other object before them: alike to wage war against any power in alliance with England, and to correspond with any power at war with her, was expressly forbid both to the *proprietary* and the *province*, by the fifteenth section of the royal charter.

The French were too feeble in America and too remote from Pennsylvania, to be then apprehended. The provinces adjacent were branches from the same root, and responsible for their conduct to the same laws; and the Indians, from the very beginning, had been considered and treated as equally the sons of one common father.

Land wanted by us was a drug to them. The province, then to be allotted, peopled, and cultivated, had not been wrested from them by violence, but purchased for a suitable consideration. In the contract between the proprietary and his sub-adventurers, all possible care had been taken, that no cause of complaint should be administered to them: in

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trade they were not to be over-reached nor imposed upon: in their persons they were not to be insulted or abused; and, in case of any complaint on either side, the subject-matter was to be heard by the magistrates in concert with the Indian chief, and decided by a mixed jury of Indians and planters.

The same regard to conscience which led them into this wilderness adhered to them afterwards; and having thus resolved and provided, never to be aggressors, and not being sovereigns, they left the rest to Providence.

Governed by principle in all things, and believing the use of arms to be unlawful, the case of defence by arms could not come within their plan.

But then as their community was left open to Christians of all persuasions, and the conditions of union could be abhorrent to none, they might well presume on being joined by numbers, which has since happened accordingly, who, being devoid of such scruples, might be easily induced, for proper considerations, to take that difficulty out of their hands: and, as to military service, under all English tenures whatsoever, no man could be compelled to serve in person, who made it his choice to serve by proxy.

Add to all this; that William Penn himself does not appear to have been under the dominion of these scruples; he having taken care in his charter from the crown (sect. 10.) to be invested with all the powers ever bestowed on a captain-general (which were also to descend to his heirs and assigns) 'to levy, muster, and train all sorts of men, of what condition soever, or wheresoever born, and to make war and to pursue such enemies as should make incursions into the province, as well by sea as land, even without the limits of the said province, and, by God's assistance, to vanquish and take them,' &c.

And, lastly, if ever involved in the quarrels of the mother-country, and obliged to take their share of the common duty and the common danger, they might reasonably hope for all the protection from thence they might stand in need of on

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the condition of contributing all that was in their power, consistent with their principles, towards it.

This they have occasionally done from colonel Fletcher's time downwards, and they would have done more, if the proprietary calls and those of their deputies had not put it out of their power.

Allowing, therefore, that this unresisting principle would have been a solecism in the construction of an independent state, it was not, provincially speaking, destitute of proper palliatives.

At least, scruple of conscience is at all times, and in all cases, less blameable than the wanton experiments tried upon the province even by the proprietary's own agents: first to scatter terrors among the peaceable inhabitants, and then to plead the necessity of a military force from the effects of their own wicked devices.

Of this nature was the false alarm raised in the queen's time by Evans and Logan: a fact which stands charged against them, in the records of the assembly, at this very day; and which, as often as recollected, will ever suggest a fear, that a measure, so unwarrantably contended for, would, if obtained, be as unwarrantably made use of.

We have now such a summary of the state of Pennsylvania, from its origin, before us, as may render every branch of the controversy still depending, familiar to us: and, as facts are best seen and understood in order of time as they occurred, we shall do our best to follow the thread as it lies.

In April, 1740, when the paper currency of the province had been just encreased, as above specified, to eighty thousand pounds, and established for sixteen years, the merchants trading to the eastern colonies of America, took occasion to complain to the house of commons, of the inconveniences and discouragements brought on the commerce of Great Britain in those parts, by the excessive quantities of paper money there issued, and the depreciated condition thereof, for want of proper funds to support its credit. The house, by way of palliative, addressed the throne to put a temporary

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stop to the evil, by instructing the several governors, not to give their assent to any farther laws of that nature, without an express proviso, that they should not take effect, till his majesty's approbation had been first obtained.

Such instructions were accordingly sent; and those to the governor of Pennsylvania were dated August 21, 1740. Notwithstanding all which, the lords of trade and plantations (having already in their hands a full and clear account of the currency, as established by the eighty thousand pounds act, as also of the rates of gold and silver, from the year 1700 to the year 1739; and having been moreover convinced, by the merchants trading to that province, that such a sum was not only reasonable but necessary for carrying on the commerce of the country) thought fit to recommend the said act, to the royal acceptance and ratification; and ten days afterwards the lords justices passed it into a law.

Here the affair slept for several years, except that the assembly, in conformity to an order, which accompanied the instructions just mentioned, caused a second state of their currency to be transmitted the following year to the lords of trade: and before it was again resumed in parliament, the several incidents, next to be recited, took place.

When the attempt upon Carthagena was under consideration, the *northern* colonies were called upon to furnish soldiers for that service, and Pennsylvania among the rest. The assembly was at that time composed, as it had hitherto generally been; consequently this demand could not but be productive of scruples and difficulties in point of conscience: that, however, they might discharge all obligations at once, they voted four thousand pounds for the king's use, and the governor took upon himself to raise the soldiers.

This was a duty of office; and, if he had discharged it properly, what would have given universal satisfaction. The labour of the plantations is performed chiefly by indented servants, brought from Great Britain, Ireland, and Germany; nor, because of the high price it bears, can it be performed any other way. These servants are purchased of the captains who bring them; the purchaser, by a positive

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law, has a legal property in them during the term they are bound for; can sell or bequeath them; and, like other chattels, they are liable to be siezed for debts. Out of these, nevertheless, did the governor make his levies. A ferment ensued: the owners were tenacious of their rights: the governor stood upon prerogative as paramount to all: the dispute was brought into the courts; and such was the terror of power, that the aggrieved was forced to repair to New York for advocates.

The assembly, seeing no other remedy, thought themselves bound to defend the rights of their constituents; and did defend them accordingly, by refusing to part with their supply, unless these servants so unjustly taken from their masters were restored. The governor was obstinate, and so the money was, at last, applied, as it ought, to indemnify them for the injury they had sustained.

That, however, they might not be misrepresented or misunderstood at home, as deficient in zeal for the public, or backward to contribute to the service, they came the next year to the following vote, to wit: 'The house, taking into consideration the many taxes their fellow-subjects in Great Britain are obliged to pay towards supporting the dignity of the crown, and defraying the necessary and contingent charges of government, and willing to demonstrate the fidelity, loyalty, and affection of the inhabitants of this province to our gracious sovereign, by bearing a share of the burden of our fellow-subjects, proportionably to our circumstances, do, therefore, cheerfully and unanimously resolve, that three thousand pounds be paid for the use of the king, his heirs and successors, to be applied to such uses as he, in his royal wisdom, shall think fit to direct and appoint.' And the said three thousand pounds were afterwards paid into his majesty's exchequer by the agent of the province accordingly. A free gift, if ever there was one, from subject to sovereign; and, however small, a sufficient voucher for the good intentions of those who made it!

In the beginning of the year 1745, the project against Louisburgh, having been carried in the assembly of New

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England by a single vote only, was imparted to the assembly of Pennsylvania by governor Shirley, with a desire, that they would contribute thereto: but though they could not be prevailed upon to take any part in an enterprize which to them appeared so desperate, they voted four thousand pounds in provisions, for the refreshment and support of the brave troops who had taken the place, as soon as it was known they were in possession of it, and that such supplies were wanting.

In the beginning of the year 1746, the ministers affected to entertain a project for the reduction of Canada. By letters from the secretary's office, dated April 6, the *northern* colonies were severally called upon to contribute their respective quotas towards it; which they cheerfully concurred in doing, seduced by their interests and their inclinations into a belief, that the whole line of our colonies would not be thus agitated, nor their Indian allies induced to take up the hatchet in conjunction with them, merely by way of feint to facilitate a peace.

Forces were every where raised by the several governors, and the assembly of Pennsylvaina voted five thousand pounds for the king's use, or, in other words, as their contingent for this pretended national service. The money so voted being more than their revenue could furnish, they proposed to raise it by an addition of the like sum to their paper currency; in which case the king would be served, the provincial capital would be so far enlarged, and the interest arising from it would in a due proportion of time, discharge the principal.

And here began the first dispute between the governor and the assembly on this topic: the governor pleaded the instruction of 1740 as a reason, why he could not bring himself to such a *pitch of boldness* as he apprehended was necessary to the contravention of it; and therefore urged them, to find out some method less exceptionable for raising the said sum: and they, willing to comply as far as possible with his scruples, so far receded from their point to that time as to issue it out of the money dormant in the loan-office for

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exchanging torn and illegible bills, and to replace it by a new emission of bills to the same amount, to be sunk out of the product of the excise in ten years. Upon which the governor waved the instruction, and passed the bill; five hundred men were raised and supported by it, for near eighten months, employed chiefly in defending the frontiers of New York, when the expedition at length was dropped and the troops disbanded.

A formal bill to restrain the *northern* colonies in general, from issuing paper bills of credit, it must be observed, had been brought into parliament, but not perfected; and in the year 1748 again: upon which occasion the next governor of Pennsylvania, James Hamilton, Esq; in a message to the assembly in October 1749, made use of the following remarkable expressions. 'I take it for granted, we are all sensible of the *mischievous tendency* of the bill that was brought into parliament the last year to regulate and restrain paper bills of credit in the plantations (in which there was a clause to enforce the orders of the crown in his majesty's American dominions) and it is not improbable, that something of the same kind may be offered in the ensuing session. I persuade myself you will give your agent full instructions upon this subject, in case it should become necessary for him to oppose it: the honourable proprietaries at that time laboured and with success to *avert* the *mischiefs* that *threatened* this province from the passing of the said bill; and I have it in command from them to assure you of their assistance upon all future occasions, wherein the welfare and happiness of the people of this province may be concerned.'

This had a favourable appearance towards the province, and from hence it might well be supposed, that the issues from this source would never be productive of any deep or lasting strife.

But though the springs had not as yet broke out with any violence, they were working their way under ground. The growing charge of Indian affairs, which lay wholly on the province, and which, on the head of purchases, as before explained, was productive of great advantages to the pro-

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prietaries, began to be the subject of public complaint: and by these suggestions of the importance of the proprietaries at home, the people were to be taught the danger of disobliging them.

But if this was their view, it did not answer: the assembly had too much discernment to be diverted from the object before them by the interposition of another, how dextrously soever the trick was performed and therefore proceeded, notwithstanding to take this affair into consideration.

It is scarce necessary to intimate, that the governor, and the creatures of the government, did all they could, not only to discourage them in it, but also to convince them, in effect, that, according to the usual current of the world, all advantages are the prerogative of those above, and all burdens the inheritance of those below.—This may indeed be agreeable to the usual current of the world: but then as such doctrines are not over palatable anywhere, so in a free government like Pennsylvania, it was not to be thought they would be swallowed at all. They were neither to be convinced nor discouraged it seems: on the contrary, they persevered; they examined; they reported; they resolved; and at last applied to the proprietaries, to do what equity required, by taking a share of the charge upon themselves.

The proprietaries, on the other hand, announced in their reply, "that they did not conceive themselves to be under any such obligation, even though the people had been taxed for the charges of government: that as not one shilling had been levied on the people for that service, it was so much less reasonable in the people to ask any thing of them: that they had, notwithstanding, charged themselves with paying their interpreter even much more than could be due to him on their account, and were also then at the expence of maintaining his son with a tutor in the Indian country, to learn their language and customs for the service of the country; as well as of sundry other charges on Indian affairs; that they had been at considerable expence for the service of the province both in England and there: that they pay the Indians for the land they purchase: and that they are no more obliged

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to contribute to the public charges than any other chief governor of any other colony."

In answer to this the assembly, May 1751, respectfully represented, "that the preserving a good understanding with the Indians was more for the interest of the proprietary estate than that of any other estate in the province, as it gave the proprietaries an opportunity of purchasing lands on the frontiers at a low price, and selling them at a high one, which would otherwise be impracticable: that, therefore, the obligations of justice and equity being stronger than those of law, they were certainly bound by them to contribute to the expence of those Indian treaties and presents by which the good understanding so beneficial to them was maintained; that though taxes in form, for the immediate support of the proprietaries' substitute, and for defraying the charges of these Indian treaties, had not of late years been imposed on the province, the charge of all (by the interest of the paper-money, which was a virtual tax, the excise, which was a real one, producing about 3000*l.* per annum, and the tax arising from licenses of various kinds, amounting yearly to a sum not inconsiderable, and appropriated wholly to the governors support,) was paid by the province: that the assembly had always paid the Indian interpreter for his public services to his full satisfaction: that they believed future assemblies would not fail to do whatever could be reasonably expected from them in regard to his son, when he should be qualified to succeed him; as also to discharge all just debts for expences properly chargeable to the province, whether incurred there or in England, whenever the accounts should be exhibited: that by the act forbidding all but the proprietaries to purchase lands of the Indians, they had obtained a monopoly of the soil, consequently ought to bear the whole charge of every treaty for such purchases, as the profit was to be wholly theirs: that their paying for land (bought as was conceived much cheaper on account of the provincial presents accompanying those treaties) was not a satisfactory reason, why they should not bear a part of the charge of such other treaties as tended to the common welfare and peace of the pro-

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vince: and that upon the whole, as the interests of the proprietaries were so constantly intermixed more or less, with those of the province, in all Indian treaties, and as it appeared the proprietaries thought they paid more than their share, while the people thought they paid abundantly too much, they apprehended the surest way to prevent dissatisfaction on all sides, would be to fix a certain proportion of the charge of all future provincial treaties with the Indians, to be paid by the proprietaries and province respectively: which, not only as a proposal equitable in itself, but conducive also to preserve that union and harmony between the proprietaries and people, so evidently advantageous to both, they hoped, would, on further consideration, be agreed to."

How this was received we shall see in its place.

The assembly proceeded soon after, to take into consideration the growth of the province, and the state of their commerce; and finding both to be such as required an extension of their paper-currency, on the same grounds and for the same ends as at first gave rise to it, unanimously resolved to strike an additional sum of twenty thousand pounds, in order to replace defective bills, and increase the provincial capital, in proportion to the increase of inhabitants; as also to re-emit and continue the sums already in circulation.

A bill was accordingly prepared in January, 1753, and sent up to the governor (Hamilton) for his concurrence; but though that gentleman was a native of the province, with rather better qualifications for his post, and, as may be supposed, more affection for the people than is common with governors, he had his reasons for not seeing this provincial point in the same light that the province did, and therefore returned the bill in a day or two, with his negative upon it: qualified indeed with expressions of concern for his so differing in opinion with them, but founded in the dislike raised in Britain by the late too general and undistinguishing complaints against the plantation bills of credit, which rendered the time very unseasonable for any application to the crown concerning the extension or re-emission of theirs; and fortified by a caveat, which sounded so much the more plausible

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is it seemed to be drawn from their own premises, namely, hat the many advantages they derived from the use of paper-noney ought to make them extremely careful, how they ook any step which might possibly endanger it.

The assembly, on the other hand, gladly fastened on an ac-nowledgment so express in favour of the thing; and, from he same sense of it, declared themselves to be equally care-ul with the governor in the conduct and direction of it: but aving so done, they went on to say, 'that as they did not ink the dislike raised in Britain of the plantation-bills, as so general and undistinguishing, or still so warmly sub-sted as the governor seemed to apprehend, so neither did ey conceive the time to be unseasonable for an application the crown about theirs: that they were equally concerned ith the governor for their difference of opinion, and that ey might not seem to act too precipitately in an affair of ch importance, they chose to make a short adjournment, fore they took his objection into consideration.'

Adjourn they did accordingly; and at their next meeting, hich was towards the end of May the same year, found emselves earnestly pressed by a message from the governor, one hand concerning Indian affairs, and on the other by titions from a considerable number of inhabitants, for a rther addition to their paper-money, supported by a variety allegations of the most interesting and affecting nature.

The governor's message, whether premature or not will st appear from the sequel, prepared the house to expect, hat the country of Allegheny situate on the waters of the hio, partly within the limits of Pennsylvania, partly within ose of Virginia, already was or soon would be invaded by army of French and Indians from Canada: in which case e Indians inhabiting there, who were a mixture of the Six ations, Shawnese, Delawares, and Twigtwees lately recom-en ed as allies to the province by the said Six Nations, be obliged to leave the country, and his majesty's bjects trading with them would be cut off, &c. unless armed by the messengers sent to them by himself r that purpose: that Montour, an interpreter, had heard

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the French declaration delivered, and the reply of the Indians, which was firm and resolute, but not to be relied upon as they were in want of all things."—So far was matter of intelligence. The rest was a pathetic representation of dangers and mischiefs to be apprehended on their own frontiers, and exhortations to enable him to give the Indians assistance answerable to their exigencies.

And upon the heels of this message, the governor also communicated to them the answer of the proprietaries to the representation of the assembly above exhibited; and which, if purposely calculated to divide the province and inflame the animosities already kindled, could not have been better framed or better timed for those fatal purposes.

Professions of attachment to the true and real interest of the province, of sparing no cost or pains whenever it should appear to them necessary to advance it, and acting such a part in considering the matter of the representation as all disinterested persons should think just, they set out with: and, having made this ground for themselves, they proceed to charge the assembly with being actuated by ill will to them on one hand, and a desire to ingratiate themselves with the weaker part of the electors on the other. In the next paragraph they say after we had, 'ordered our governor to give you the answer which he did, to your former application, we had no reason to expect a repetition of the application directly to ourselves, as you might well suppose we had considered the matter before we had returned our first answer, and the repeating the request could only produce the repeating the answer, the occasion for which does not appear to us. It is possible, that one purpose may be in order to shew more publicly this difference in opinion between us and yourselves; and if that was ever intended, it will be convenient we should set this matter in a clear light although it may make our answer longer than we could wish) that the true state of the matter may appear.'

They then urge the authority of the board of trade, in justification of their former assertion, that they were no more obliged to contribute to the public charges, than the chief governor

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of any other colony: they will not allow that their honoured father had any assistance from the people in making his purchases, or that there is the least colour for pressing them so unseasonably to contribute to the public charge, seeing that the said charge did not much exceed one half of the revenue:—and they not only return to their first charge, that the assembly by so doing, could only mean to captivate the weakest of the people, and so by their assistance continue to hold their seats in the assembly, but farther, cite as so many proofs, the time of making their first representation, which was just before an election: their printing the report and most extraordinary resolutions on which the said representation was founded, which seemed to argue it was rather intended as an address to them the said populace, than to the proprietaries, and the solemn repetition of the same request as if it was a matter of great value and importance.

Take the next article in their own words. 'Wherefore, on this occasion, it is necessary that we should inform the people, through yourselves their representatives, that, as by the constitution, our consent is necessary to their laws, at the same time that they have an undoubted right to such as are necessary for the defence and real service of the country; so, it will tend the better to facilitate the several matters which must be transacted with us, for their representatives to shew a regard to us and our interest: for, considering the rank which the crown has been pleased to give us in Pennsylvania, we shall expect from the people's representatives on all occasions, a treatment suitable thereto; and that whilst we desire to govern the province according to law only, they should be as careful to support our interests, as we shall always be to support theirs.'

Recurring again to the revenue, they affected to be truly concerned for being obliged to acquaint the public with a state of it, settle that state at six thousand pounds a year, arising from the excise and the provincial bills: again assert, that the annual expence of government for a series of years, including Indian charges, amounts to little more than half that sum: and that of all this revenue, about four hundred

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pounds a year only has, on an average, for twenty years past (and great part of that time during war) been expended in presents to the Indians and charges on that account, which they could not conceive to be a large sum, compared with that revenue, the manner of its being raised, and so important a service as that of keeping the united nations of Indians in the interest of Great-Britain.

They then talk of the taxes paid by their family here at home, as an equivalent to the Indian article; and then proceed in the following remarkable terms. 'And at the same time that we shew you that we do pay all other taxes here, that on land only excepted, we must advise you to be very careful, not to put people here in mind of that single exemption. Several proposals have been made for laying taxes on North America, and it is most easy to foresee, that the self-same act of parliament that shall lay them on our, will also lay them on your estates, and on those of your constituents.'

In the next article, having denied, that the assembly had always paid the interpreter to his satisfaction, and insisted that they themselves had gratified him when the assembly had refused to pay him what he thought his services deserved; they add, in a higher tone: 'however, with respect to any expence of that sort, and many others here, we entered into them without any expectation of being repaid, and should think it far beneath us to send the accounts of them to the house of representatives, as your agents employed by yourselves might do, for the expences incurred by them.'

Proceeding in the same style, they say in the next article, 'we do not conceive that any act of assembly does, or can establish what you call a monopoly in us for the purchase of lands: we derive no right or property from any such law: it is under the king's royal charter that we have the sole right to make such purchases,' &c.

It is fit the last five articles should be inserted intire; and they are *verbatim* as follows, viz.

'12. Your assertion that treaties for land are made at a less expence to us, on account of provincial presents being

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given at the same time, does not appear to us to be founded on fact: the last purchase was made on no other account, but purely to save the province the expence of making another present to some Indians, who come down after the time that the principal deputation had received the presents intended for the whole, and were on their return back; and the land was bought very dear on that account, other treaties for land have been made when provincial presents have not been given; and we do not or ever did desire that the inhabitants should bear any part of the expence of Indians, who come down solely at our request to consent to the sale of lands, unless they stay on other public business also; and whenever they have come down on both accounts, we are sensible the expence has been divided in a manner very favourable to the public.

'13. We are far from desiring to avoid contributing to any public expence which it is reasonable we should bear a part of, although our estate is not, by law, liableto be taxed. As we have already been, so we doubt not we shall always be, at a far greater expence in attending the affairs of the province, than our estate could be taxed at, if all the estates in the province were rated to the public charges, which would be the only fair way of establishing a proportion. If we were willing to consent to any such matter, the value of our estate, and of the estates of all the inhabitants, ought to be considered, and the whole expence proportionably laid upon the whole value; in which case, you will find, that the expence which we voluntarily submit to, out of affection to the inhabitants, is much more than such our proportion so laid would amount to: besides these general expences, the first of us sent cannon, at his own charge, to the amount of above four hundred pounds sterling, for the defence of our city of Philadelphia, neglected by a late house of representatives; which, alone, is such a sum as the proportion of a tax on our estate would not in many years amount to. And, as this is the case, we are not disposed to enter into any agreement with the house of representatives for payment of any particular proportion of Indian or other public expence, but shall leave it to them (to

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whom it of right belongs) to provide for such expence, as they shall judge necessary for the public service.

'14. As you desire to appear willing on your parts, to ease your constituents of a small part of the Indians' expence, by throwing it upon us, we shall, on our part, and hereby do recommend it to you to give them a real and far greater relief, by taking off a large share of that only tax which is borne by them. As the general expence amounts to little more than three thousand pounds a year, we conceive it may very well be provided for out of the interest of the paper-money, and one half of the present excise; especially, if we shall be induced, from the state of your trade (which we expect soon to receive) to consent to an increase of your paper-currency, this would ease the inhabitants of about fifteen hundred pounds a year, which would be felt by many of them, when they would not be sensible of the trifle you propose we should contribute to the public expence. We have directed the governor to consent to such a law when you shall think fit to present it to him.

'15. As we shall ever, in the first place, endeavour to promote the real interests of the good people of Pennsylvania we make no doubt of preserving an union and harmony between us and them, unless men of warm or uneasy spirits should unhappily procure themselves to be elected for representatives, and should, for the supporting of their own private views, or interests, influence their brethren, otherwise honest and well-designing, to espouse their cause; in such case indeed, disputes may arise, wherein we shall engage with the utmost reluctance; but even then, as we shall make the general good the rule of our actions, we shall, on all such occasions, if ever they should happen, steadily, and without wavering, pursue measures the most likely to conduce to that good end.

'16. The representatives being annually chosen, we are aware that we are not writing now to the same persons who sent the representation to us; the persons most forward to push on a measure (which, from the answer, we directed our governor to give to the former application he was de-

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sired to make to us, must be supposed disagreeable) may not now be in the house, but may be succeeded by more prudent persons returned for their places, who would be careful not to press a matter too far, in which the rights of the people are not really concerned: however, the answer we give must be to the representation sent us. And we desire, in any matter of the like nature, that the house will be satisfied with such an answer, as the governor may have orders to give on our behalf.

THOMAS PENN,
RICHARD PENN.'

In the temper the assembly was in before the reading of this ungracious paper, it was but natural to expect, that they would have taken fire immediately, and proceeded at once to their own justification.

But, much to the honour of their prudence, they took a different method. They ordered it to lie on the table, together with their own votes, report, representation, &c. alluded to in it; and returning to the two points already before them, resolved to clear their way, by dispatching them first.

These, it will be remembered, were the currency-bill, returned to the house by the governor before their adjournment, with a negative, and the governor's message with respect to the resolution of the Indians to withstand the French, in case they should be invaded by them on the Ohio.

They had also under consideration several new dispatches from their agent here at home, and also an account of the value of their imports from hence; which for the year 1749 was in all two hundred and thirty-eight thousand six hundred and thirty-seven pounds two shillings and ten pence. For the year 1750, two hundred and seventeen thousand seven hundred and thirteen pounds and ten pence. And for the year 1751, one hundred and ninety thousand nine hundred and seventeen pounds five shillings and one penny. Whence it was apparent, that for want of a sufficient currency, to invigorate the industry, and supply the wants of the province, the importations from hence were in a gradual course of de-

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clension. And after mature deliberation on the whole matter, they again sent up their bill to the governor with the following message, viz.

'*May it please the Governor*,

'The governor's apprehension, at our last sitting, that the dislike raised in Great Britain of the bills of credit in the plantations, by the late too general and undistinguishing complaints, so warmly subsisted, as to make any application to the crown about our currency at that time unseasonable, induced the house, notwithstanding their different sentiments, to make a short adjournment, to consider farther of the weight of that objection; and also of the sums by that bill proposed to be made, and continued current in this province. And now, when we reflect, that though the complaints against a paper-currency, arising from the excesses of some colonies therein, were indeed at first too general and undistinguishing, so as to occasion the bringing into parliament a bill for restraining the same in all the colonies; yet, as upon strict enquiry (a state of our currency then lying before them) the parliament thought fit to alter the bill, and lay the restraint only on those colonies where that currency had been abused, we cannot but look on this as distinguishing in our favour; especially as we are assured, that no complaints were ever made of our currency by the British merchants, trading hither, who only could be affected by it; but that on the contrary they have, whenever called upon for their opinion, by the parliament or the lords of trade, appeared openly and warmly in its favour, and declared (as they did in 1739, when our act for eighty thousand pounds, the present sum, was under consideration) That it was not only a reasonable sum, but absolutely necessary for carrying on the commerce of the country; which appears by the report of the said lords, made on that occasion to the council. And as the exports from Britain to this province, of which we have authentic accounts, had then, in the three preceding years, amounted to no more than one hundred and seventy-nine thousand six hundred and fifty-four pounds nine shillings and two pence sterling; and now in the years 1749, 1750, and 1751, they

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amount to six hundred and forty-seven thousand three hundred and seventeen pounds eight shillings and nine pence sterling; and our numbers of people, and domestic trade, and the occasions for a medium of commerce, are equally increased, there cannot, we think, be any doubt, but the British merchants will now likewise be of opinion, that the small addition we at present propose is absolutely necessary, though they may not think it so suitable to our circumstances as a larger sum; one hundred thousand pounds of paper-currency bearing by no means the same proportion to our trade now, as eighty thousand pounds did then. And it is certain, that, as the money circulating among us diminishes, so must our trade and usefulness to Great Britain, and our consumption of its manufactures, diminish.

'Upon the whole, we intreat the governor to consider the distressing circumstances under which the trade, and in consequence the whole province, must languish, if, contrary to our expectations, the bill we now present him should not be enacted into a law. And we are well assured, that as the governor has been pleased to declare his sentiments of the many advantages we derive from the use of paper-money, his transmitting it home, in a true light, will make our application to the crown as effectual as it is seasonable.'

The governor now demurred in his turn, and by his secretary gave the house to understand, that, as it was usual for the assembly to meet again in August to finish the business of the year, he chose for that and some other reasons, to keep the bill under consideration, till that time.

In this the house acquiesced: and having suspended all resolutions on the proprietaries' paper, and the draught prepared by a committee of their own in answer to it, till their next sitting, proceeded to the Indian affairs, and having come to proper resolutions thereon, transmitted them also, together with the following judicious message to the governor, to wit.

'*May it please the Governor*,

'We have, on all occasions, acknowledged our grateful sentiments of the governor's regard and justice towards the

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Indians, our allies; and we now again return our hearty thanks for his continued care, and for communicating the intelligence he has received concerning their present distresses. In pursuance of which, we have resumed the consideration of the letters laid before the house, with the message of the 16th of October last, together with the governor's late message and papers, sent down to us before and since the return of the expresses dispatched to Ohio. We have also carefully examined the messenger himself, and such Indian traders, and others, who could give us any information of the numbers, and designs of the forces, raised by the governor of Canada, and of the condition of the Twigtwees, as well as the other Indians, our allies, upon the waters of Ohio, and upon mature deliberation, have resolved to contribute generously to their assistance, by a present suitable to their want of the necessaries of life.

'Though the alliance between the crown of Great Britain and the Six Nations, and the protection and assistance they expect to receive in virtue of that alliance, is more immediately under the direction of the government of New York; and although Virginia, at this time, has entered largely into the trade, and will, no doubt, on the present occasion, assist them and their allies, yet we have always endeavoured, in proportion to our abilities, by presents, as well as by obliging our Indian traders to behave with justice towards them, to preserve their friendship; and on the present occasion, notwithstanding we have the misfortune to differ in sentiments with our proprietaries in the part they ought to bear in these expences, we have rather considered the advantages both they and the province may receive by our liberality, which we have voted cheerfully, and recommended the distribution to the care of the governor, that the Six Nations at Onondago (upon any application to be made to him in their own behalf, or for their allies who reside to the westward, and are likely to be more immediately affected) may be satisfied, and the present intended them best answer their necessities, and our peaceable and friendly intentions.'

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The present was eight hundred pounds; two hundred pounds as a present of condolence to the Twigtwee nation, for the loss of fourteen of them, cut off in the preceding year, by the French and their Indians,[7] and the rest to be distributed by the governor among the other nations, at his own discretion.

Thus far all was calm and quiet,—and at their next meeting, in the latter end of August, they received two other messages from the governor, relating to the money-bill and the Indian present: the latter importing, that he had not, as yet, received any application for any purpose whatever, from any of the Indians; nor even such well-grounded advices of their wants and distresses as to induce him to make any use of the credit reposed in him: that he had, however, dispatched Weiser [the interpreter] for intelligence; and that, having received advices by all who came from the westward, that the French were on their march towards the Ohio, and had sent out their parties to scour the woods before them, he had not sent the present of condolence, for fear of its falling into the enemies' hands, &c.

And as to the former, it related to the currency-bill, returned at the same time with some few amendments, to which he, the governor, presumed the house could have no objection; and concluded with these remarkable expressions: 'I cannot, however, but acquaint you, that in giving my assent to this bill, I have acted rather in compliance to your repeated application, than that, in my own judgment, I could think an addition, to our currency at this time, absolutely necessary: I am in hopes, nevertheless, that as the sum to

[7] They suffered this loss in defence of some English traders then in one of their towns. The French came with a strong body, and demanded that the traders and their goods should be delivered up to them. The Indians determined to protect them, but were overpowered by numbers; some of the traders were killed and the rest carried to Montreal, and afterwards sent prisoners to France. This was before the commencement of the present war, and one of the many hostilities of the like kind previous to our seizing their ships.

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be emitted is not exorbitant, it may be attended with no bad consequences to the province.'

Now the principal of these amendments was the following proviso, viz. 'Provided always, and it is hereby farther enacted by the authority aforesaid, that this act or any thing therein contained, shall not take effect, or be deemed or construed or taken to have any force or effect, until the same shall have received the royal approbation of his majesty, his heirs, or successors.' Which proved to be so far from being unobjectionable, that, upon the question, the house unanimously resolved, 'Not to agree to this amendment, because they apprehended it to be destructive of the liberties derived to them by the royal and provincial charters, as well as injurious to the proprietaries' rights, and without any precedent in the laws of the province.' And the governor, on the other hand, adhered, 'Because the clause so proposed to be added was founded on the additional instruction from the lords justices, in pursuance of the Commons' address above specified; which instruction had been known to the province ever since January, 1740; and consequently, they might see the reason of his adding it was such as he could not allow himself the liberty of receding from.'

And here it is to be lamented, that, while this affair was first under the consideration of parliament, neither the proprietary nor the provincial agent thought fit to lay those clauses of their charter before the house, by which the said proprietary and the assembly are entrusted with the whole legislative power, subject to the royal revision and ratification, and may even put laws not inconsistent with their allegiance in force, for the term of five years, without it; since, in all probability, that measure would have produced some such a temperament as might have prevented the broil which ensued apparently for want of it.

The assembly took the governor's reply immediately into consideration, and prepared a suitable rejoinder; in which having interwoven the unanimous resolution just specified, they declared themselves assured, from the report of their committee, to whom they had referred both the clause and the

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examination of their laws, that there had not been one single instance of a law passed under such a restriction as that then contended for, from the first settlement of the province to that day. And here they might have safely stopt, if they had thought fit, seeing nothing could be added in their justification stronger than their charter-claims, and such a series of practice founded upon them: but, willing to be every way fortified, they entered farther into an enquiry, why so dangerous an experiment should be then pressed upon them without the least apparent necessity? and proceeded to shew, that the instruction itself was a temporary one: that, though it was directed to a governor of that province among the rest, it neither did nor could suit their circumstances, either at that or at any other time before or since: that this, having been manifested to and acknowleged by the lords of trade, the ends of it, as to them, had been fully answered: that the said lords, in their report to the house of commons, subsequent to that address to the throne concerning the paper currencies of America, having signified, that they would humbly propose that his majesty would be graciously pleased to repeat his orders to his governors of the plantations, not to give their assent, for the future, to any bill or bills for issuing or re-issuing paper-money, proceed to say, 'We hope these propositions for reducing and discharging the paper-currency of the plantations, may have a good effect in those governments which are held by immediate commission under his majesty; but we are very doubtful, whether they will produce the like effect in the charter governments, who do apprehend themselves by their particular charters and constitutions to be very little dependent upon the crown, and for that reason seldom pay that obedience to his majesty's orders, which might be reasonably expected from them;' that, notwithstanding what is here said concerning the repetition of these orders, they had good reason to believe those orders, at least to their governors, had never been repeated: that a bill, in which was a clause to inforce the orders and instructions of the crown in America had been repeatedly brought into parliament, and as often rejected: that the go-

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vernor himself had represented this bill (to restrain the issues of paper-money) as of mischievous tendency: that even the very proprietaries had made a merit of opposing it: that, as in the act of parliament for that purpose which did pass in June 1751, the eastern colonies alone were included, so Pennsylvania was left in full possession of its rights, even by the parliament itself: that, as the date of the governor's commission was many years posterior to the date of the instruction, they hoped and presumed, he was at full liberty to pass all their acts upon the terms granted them by the royal and provincial charter, without putting them to the disagreeable necessity of examining the validity of such instructions, &c. And, lastly, as to the issue of their enquiry, concerning the necessity of contending for the present amendments, they not only declared themselves at a loss to find it out, but also called upon the governor to comply with the general voice of the people, and the repeated unanimous applications of their representatives in granting them and the province the seasonable relief provided for in the bill, by giving his assent to it as it stood.

How the governor was circumstanced may be gathered from his actions: he adhered to his amendments, and returned the bill as before, with a written message, in which he persevered in holding up the instruction as an insurmountable bar, till revoked, to the assent required of him; urging, that his predecessor had done the same in 1746: that the assembly admitted the validity of it in ordinary cases; and, without pretending to dispute, only hoped he would find himself at liberty on a re-consideration to give his assent, notwithstanding, to a currency-bill, when any extraordinary emergency required it: that then, it seemed plain, they did not think an instruction, founded on an address of the commons, was either illegal or temporary, or destructive of their liberties; that if these were then the sentiments of both governor and assembly, there was no room for the insinuation that he had been the first to press so dangerous an experiment; that if there was no instance before of a like clause offered, there was, perhaps, no instance of the like

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instruction, which otherwise, it was to have been supposed, would have met with the same dutiful obedience; that a restraining instruction was, perhaps, on no occasion so necessary as in the business of money, over which the king had peculiar prerogatives; that if they could make it appear to his majesty's ministry, that an addition to their currency was at that time necessary, the royal compliance was not to be doubted; that with regard to the former currency-bill by them cited, he was still of the same opinion; but that, surely a very moderate share of penetration was sufficient to distinguish between an act to enforce all orders and instructions, and an instruction founded on an address of parliament; that they would certainly allow him to judge for himself in a point recommended to his observance on pain of incurring his majesty's highest displeasure; that he did not by any means blame them for contending for what they apprehended to be their rights and privileges, consequently could have no objection to their examining the validity of the king's instructions, provided they proceeded with such temper and moderation, as might give the world no room to repeat the charge brought against the charter-governments by the lords of trade, of apprehending themselves very little dependent on the crown; and that, upon the whole, he was sincerely of opinion, the royal instruction was of the same force as when the late governor told the assembly, in the year 1746, he could not bring himself to such a pitch of boldness as to contravene it.

It is obvious, that the conjuring up the ghost of these departed instructions, was only to strike an awe into the assembly, and thereby prepare them for what farther practice, the new orders which could not but accompany the proprietary's paper already recited, might enjoin.

The king, the king's ministers, and the house of commons, were authorities too big for a provincial representative to compete with, and therefore it might be supposed their very names would serve.

But they were too wise and too steady to be amused, and the difference of language made use of by the proprietaries

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and their governor, was alone sufficient to warrant the different conduct they observed; for though the governor talked only of the sovereign power, the proprietaries talked only of themselves; 'If WE shall be induced from the state of your trade to consent to an increase of your paper-currency.'

Not thinking themselves obliged, therefore, to consider what additional inducements were necessary to incline those great men to suffer their deputy to discharge the duty of his commission, the assembly chose to lose their bill rather than pay more for it than it was worth.

Accordingly, the governor's amendments being again put to the question, were again rejected unanimously; and a committee was appointed to answer his message, which they did in such a manner as shewed they were more anxious to do justice to their cause than make their court to the governor.

What governor Thomas did in passing the five thousand pounds act, they urged against what he said; the validity of instructions in ordinary cases, said to be admitted by the assembly of that time, they explain away, by saying, the distinction was only made use of to furnish the governor with a pretence, or inducement to pass the bill: that this was not the first instruction unlimited in point of time, and remaining as yet unrevoked, which neither was or would, as they hoped, be observed; since there was one still to be found in the council-books to governor Keith, dated July, 1723, requiring him, for the future, not to pass any private act without a suspending clause, till his majesty's approbation had been first obtained; that unfortunate, indeed, would the case of Pennsylvania be, if governors were never to be freed from the obligation of occasional instructions. 'If the king,' said they, 'should judge all the purposes of his instruction answered, upon passing the paper-money bill in parliament in 1751, we must, nevertheless, for ever continue under the burden of it without redress. And if we should suppose the governor is restricted by the proprietaries from giving his assent to the emission of any farther sum in bills of credit, as we have very little reason to doubt, if then the proprieta-

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ries should be pleased to withdraw that restriction, and leave him at liberty to pass all our acts upon the terms granted us by our charters, what will this avail if the governor continues to think he can never be freed from the obligation of his instructions?'

More materially still, they also subjoined the articles following, viz.

'We apprehend all royal orders and instructions subject the governors to whom they are directed, and their successors too, as the governor is pleased to inform us, to the royal displeasure, unless such instructions are revoked by his majesty's authority; and yet we cannot find that governor Keith, to whom it was directed, or governor Gordon his successor, or governor Thomas, or our present governor, have ever thought themselves under any danger of incurring his majesty's displeasure for a total neglect, and direct disobedience to the additional instruction of the lords justices in 1723, the original of which, we make no doubt, as well as of the instruction of 1740, is in the governor's possession; and the substance of both we know to be printed with the minutes of our house. Why then an instruction, allowed to be in force in 1723, and still unrevoked, should be of no effect, and an additional instruction of the lords justices in 1740, possibly revoked by the conduct of the succeeding sessions of the same parliament, upon whose address to his majesty that instruction was founded, should be so strictly binding, is what we cannot apprehend.

'But if the liberty the governor contends for can mean, that we must allow him to judge for himself, how far he may or may not obey such royal instructions, at his own risque (as his majesty's highest displeasure is threatened against him particularly) and at his own pleasure too, then we must own we are at a loss to distinguish any great difference between the mischievous tendency of an act to enforce all orders and instructions of the crown whatever, and the necessity the governor is pleased to think we are under to allow him the power of enforcing them whenever he shall think fit; with this preference, however, that we would far rather

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choose to submit ourselves, and our cause, to the king and the justice of a British parliament, than to the mere will of our governor, whether to enforce or disregard them, however they may have answered their ends, or otherwise abated of their force; and in the present case, we hope the governor, on reflection, will pay some regard to the judgment of the same parliament from which the address to the crown had been preferred to issue this additional instruction, who, although requested in their next session by the board of trade, to address the crown again, that he would be pleased to repeat his instructions to the governors in his American colonies, have not only never complied therewith, that we know of, but have since passed an act for restraining the issuing bills of credit in those particular colonies, where, after a full enquiry, they found such emissions injurious to the trade of Great Britain, or not calculated to do justice between man and man, and have left us, as we presume, exonerated from the burden of this additional instruction, and in full power over our laws upon the terms of our charters; and so long as we ask nothing farther than is warranted by these, we hope it neither will nor can interfere with the royal prerogatives.

'It may be presumed, the representatives of this province, when met in their assemblies, have some valuable privileges yet left, in framing their laws, to do justice between man and man, without the aid of an additional instruction; and we hope it cannot be expected that we should very easily part with those rights and depend on royal instructions, over which we are to allow the governor the power he is pleased to contend for; and we have no reason to doubt, all men of understanding and candour will prefer a regular course of laws, occasionally suited to the times, and framed by the representatives of the people, annually chosen, and assented to by their governor, to a series of instructions sent for that purpose from so great a distance.

'For our own part, we are fully satisfied and assured, that so long as we continue in our duty and loyalty to the best of kings, who has been pleased to declare, *that nothing in this*

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world can give him so much pleasure as to see (his subjects) a flourishing and happy people; and neither claim, nor desire, other or greater privileges than those we have a right to, under the grant of his royal predecessors, we can have nothing to fear from a king and a British parliament, and, as it is our duty to defend these in the best manner we are able, in the faithful discharge of so high a trust, we shall have the satisfaction of our own minds, and, we hope, the countenance of all good men, notwithstanding the governor's opinion, that the charge made against this province (among other charter provinces) by the board of trade, is not much to our advantage.'

And having before declared their persuasion or assurance, that the governor might pass the law in question, or any other law, consistent with the royal charter, without the least apprehension of his majesty's displeasure, they finally suggest, that it must be not only a loss of time to the representatives, but a great expence to the country, to prepare bills for the governor's assent, which he was bound by private instructions from the proprietaries not to pass.

Unanimously this report was approved of; and yet, from a principle of moderation we must presume, it was left to be reconsidered by the next assembly; as also was another report, received the same day from the committee, appointed to draw up a reply to the paper last transmitted from the proprietaries, of which, as a debt both of honour and justice to the province, some account is now to be given.

Sixteen sections or paragraphs, it must be recollected, that paper was composed of; and one by one they are severally considered, acknowledged or refused.

The declaration contained in the first is acknowledged to be a noble one, and worthy the rank held by the proprietaries: the insinuation in the second is declared to be not only groundless but also injurious; the assembly, instead of opposing the proprietary interest, having consulted that interest, even in the very point in question, if it was consistent with their interest to have a good understanding with the people; to obtain which a method was proposed: to the intimation con-

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tained in the third, that after they had ordered their governor to give the answer which he did to the former application, they had no reason to expect a repetition directly to themselves, &c. it was replied, that repetitions, when they are supported with new reasons, and contain answers to those given for refusing the request that had been made, are justifiable in all cases, except where the persons applied to were sure to be infallibly right, or incapable of hearing reason: to the fourth, containing the opinion of the lords of trade, concerning the obligations incumbent on the proprietaries as chief governors, to pay a part of public charges, the committee say, that the house did not require their contribution as governors but as proprietaries; which was according to William Penn's own distinction formerly made; and considering them, as in the same paragraph is afterwards done, to be the wealthiest inhabitants of the province, it follows undeniably, that such their contributions were therefore due to the province in proportion to their substance in it: in their answer to the fifth, they both combat with and complain of a misrepresentation contained in it, as a thing unworthy the dignity of the proprietaries and chief governors of a province, urging, that they did not assert, purchases were made directly with the people's money; but only, that they were made on the more reasonable terms, because of the provincial presents attending them; and that this was advanced as an additional reason why the proprietaries should bear, at least, a proportional part of the expence of such presents; sharing in the first place, as they did, in the good from these treaties resulting to the whole, and ingrossing, over and above, a very considerable advantage to themselves.

To the sixth, which insinuates, that the people are able enough to pay these expences without the assistance of the proprietaries, they retort most unanswerably, that because they are able to pay, it does not follow, that, therefore, they are obliged to pay unjustly; as also, that they, the proprietaries, are as able as themselves, and asking, why that reason, which, it was plain, was not sufficient to induce them to pay a part, should be held of force enough with the people

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to induce them to pay the whole? after which they declare the charge against them in the said paragraph of aiming to captivate the weakest of the people, &c. to be an absolute mistake, unsupported with the least degree of probability, the proprietaries not having had any formidable share in the people's esteem for many years past, nor the supposed address to the people made, nor the representation itself published, nor even the votes on which it was founded, till after the election was over, &c.

Upon the seventh, concerning the expediency of shewing a due regard to the proprietaries and their interest, they comment as follows, 'that is, as we understand it, though the proprietaries have a deputy here, supported by the province, who is, or ought to be fully empowered to pass all laws, necessary for the service of the country, yet, before we can obtain such laws, we must facilitate their passage, by paying money for the proprietaries which they ought to pay; or, in some other shape make it their particular interest to pass them: we hope, however, that, if this practice has ever been begun it will never be continued in this province; and that since, as this very paragraph allows, we have an undoubted right to such laws, we shall be always able to obtain them from the goodness of our sovereign, without going to market for them to a subject.'—They afterwards expatiate on the word rank as applied by the proprietaries to themselves in the same paragraph; concerning which they say, 'we cannot find on perusing the representation in question, that it contains any treatment unsuitable to their rank. The resolve of the house was, that to prevent dissatisfactions on all sides, they should be requested, in the most reasonable and most respectful manner, to agree upon a proportion of Indian charges to be paid by them and the province according to justice: and it may be submitted to the judgment of all impartial persons, whether the representation drawn in pursuance of the resolve, was not both reasonable in itself and respectful in the manner. It was not, as the proprietaries represent it, an address to the public. It is not to this day made public. It was a private application to themselves,

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transmitted to them through the hands of their governor. Their true interest (which they will always find to consist in just, equitable, and generous measures, and in securing the affections of their people) was consulted in it, and one suitable means proposed to obtain that end.—As to rank, the proprietaries may remember, that the crown has likewise been pleased to give the assemblies of this province a rank; a rank which they hold, not by hereditary descent, but as they are the voluntary choice of a free people, unbribed, and even unsolicited: but they are sensible that true respect is not necessarily connected with rank, and that it is only from a course of action suitable to that rank they can hope to obtain it.'

Coming then to the eighth, they express their surprize at the concern affected by the proprietaries, on their being, as they say, laid under a necessity of acquainting the public with a state of the provincial revenue, the said revenue being annually settled, stated, printed, and published by the assembly, and having so been for thirty years past: adding, that whatever reasons the proprietaries might have to make a secret of their revenue, the province had none.—The manner in which the proprietaries reason concerning taxes they object to in the next place, as inaccurate and inconclusive: asserting, that taxes, how reasonably soever imposed or willingly paid, are, nevertheless, taxes: that all taxes ought upon the whole, to produce more good to those who pay them, than the same sum left at their own disposal, in which case they are no burden, &c. and concluding thus; after estimating our whole present revenue, as if it had been the same for twenty years past, and would certainly continue, though the proprietaries know it depends on temporary acts near expiring, the renewal of which is at best dubious, they conclude that four hundred pounds a year, for Indian expences, is a small sum, and that we are under no necessity of being frugal, on this account, of the public money. This four hundred a year is the sum that they find has been paid on an average for twenty years past, and they take no notice of its being a growing charge, and that for the four last years before

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the representation, it amounted to nearly twelve hundred a year, which we conceive disinterested persons will think a very large sum: and although the same excise might have been raised, if not half that money had been expended, it does not seem to us to follow, that the proprietaries ought not to have paid their just proportion of it; if the sum be small, their proportion of it must have been smaller: and the money so saved might have been applied to some other use, beneficial to the public; or have remained ready in the treasury for any emergency.'

In return to the ninth they say, the people of Pennsylvania pay, proportionably, as much towards the support of his majesty's government, in the shape of duties and excise, as the proprietary family, or any other subjects; indeed as much as an infant colony can bear; and more they hoped and believed the justice of a British parliament would never burden them with: adding, 'the proprietaries exemption was not published till now at their own instance, it was made use of as a private motive to themselves only in the representation.'

To the tenth, which regards the Indian interpreter, among other things equally pertinent, they say, 'we suppose the instance alluded to, wherein the assembly did not fully satisfy him, must have been such as the proprietaries were concerned in by the purchase of lands; and a part might be accordingly left for them to pay.'—And for themselves and all other assemblies, they declare their hope and belief, that no service from the proprietaries to the province, will ever be suffered to pass without grateful acknowledgments and proper returns.

Of the proprietary right to a monopoly of land, whether from the crown or assembly, they, in answer to the eleventh article, wave all dispute; it being every way conclusive alike, 'that those in whose favour such monopoly was created, ought, at least, to bear a part of the expence necessary to secure them the full benefit of it.'

Lastly, having already given the concluding five articles of the proprietary paper in the intire, it is but reasonable to subjoin the intire answers, which were as follow. To wit.

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'12. In the twelfth paragraph, three things appear somewhat extraordinary to your committee. 1. That the proprietaries should deny that treaties for land are made at less expence on account of provincial presents accompanying them; which we think any disinterested judge would at least allow to be probable. 2. That they should say the last purchase was made on no other account, but purely to save the province the expence of a present; as if they had no occasion to purchase more land of the Indians, or found no advantage in it. 3. That to prove such purchases were not the cheaper on account of provincial presents accompanying them, they should give an instance in which, they themselves say, the purchase was the dearer for want of such presents. If purchases are dearer to the proprietaries when no provincial presents accompany them, does not this clearly confirm the assertion of the assembly, that they are the cheaper when there are such presents? and does it not prove what the proprietaries deny?'

'13. It appears by their thirteenth paragraph that the proprietaries think the part they voluntarily submit to bear, and expect always to bear, of public expences, is greater than their proportion, equitably laid, would amount to. If this be so, and they are, as they say, "far from desiring to avoid contributing to any public expence which it is reasonable they should bear a part of, although their estate is not by law liable to be taxed;" your committee are at a loss to conceive, why they should refuse, "to enter into an agreement for the payment of any particular proportion of Indian or other public expences," when such agreement might save them money, and is proposed to prevent dissatisfactions, and to preserve union and harmony between them and the people; unless it be to shew their utter contempt of such union and harmony, and how much they are above valuing the people's regard.

'The charge on former assemblies, that they neglected the defence of the proprietaries' city, your committee cannot but think unkind, when it is known to the world, that they gave many thousand pounds during the war to the king's use, besides paying near three thousand pounds at one time, to

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make good the damages done to the masters of servants, by the irregular and oppressive proceedings of the proprietaries lieutenant; and that their not providing cannon to defend the city was not from neglect, but other considerations set forth at large in the printed proceedings of those times, needless now to be repeated. At the same time it may be remembered, that though the defence of the proprietaries city, as they are pleased to term it, by batteries of cannon, was more their interest (we will not say duty) than any other persons whatsoever, and they now represent it as a thing so necessary, yet they themselves really neglected, and even discouraged it; while some private gentlemen gave sums nearly equal to that they mention, and many contributed vastly more, considering their circumstances, by which means those batteries were not only completed in season, but the defence of both town and country in that way provided for; whereas this boasted assistance of four hundred pounds' worth of cannon, was sent, like Venetian succours, after the wars were over. Yet we doubt not, but the proprietary who sent them has long since had the thanks of those who received them, though we cannot learn that they ever were favoured with any from him, for what they did and expended in defence of his share of the province property.'

'14. The fourteenth paragraph of the proprietaries' answer seems calculated merely for the same design with which they charge the representation, viz. to amuse the weaker part of the people.—If they are really disposed to favour the drinkers of spirituous liquors, they may do it without a law, by instructing their lieutenants to abate half the license fees, which would enable the retailers to sell proportionably cheaper; or to refuse licenses to more than half the present number of public houses, which might prevent the ruin of many families, and the great increase of idleness, drunkenness, and other immoralities among us.

'15. In return to the good resolutions expressed by the proprietaries in their fifteenth section, your committee hope that future, as well as past assemblies will likewise endeavour to make the public good the rule of their actions, and upon all occasions consult the true interest and honour of the pro-

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prietary family, whatever may be the sentiments or conduct of any of its particular branches. To this end, we think the honest and free remarks contained in this report, may be more conducive than a thousand flattering addresses. And we hope, that when the proprietaries shall think fit to reconsider this matter, they will be persuaded, that agreeing to an equitable proportion of expence will be a good means of taking away one handle of dissention from "men of warm uneasy spirits, if such should ever unhappily procure themselves to be elected."

'16. Yet if the proprietaries are really desirous of preserving an union and harmony between themselves and this people, we cannot but be surprized at their last paragraph, whereby they endeavour to cut off the assemblies access to them, in cases where the answers received from their deputies may not be thought agreeable to the public good. No king of England, as we can remember, has ever taken on himself such state, as to refuse personal applications from the meanest of his subjects, where the redress of a grievance could not be obtained of his officers. Even sultans, sophies, and other eastern absolute monarchs will, it is said, sometimes sit whole days to hear the complaints and petitions of their very slaves; and are the proprietaries of Pennsylvania, become too great to be addressed by the representatives of the freemen of their province? if they must not be reasoned with, because they have given instructions, nor their deputy because he has received them; our meetings and deliberations are hence forth useless; we have only to know their will and to obey.

'To conclude; if this province must be at more than two thousand pounds a year expense, to support a proprietary's deputy, who shall not be at liberty to use his own judgment in passing laws [as is intimated to us in the fourteenth section of the answer we have been considering] but the assent must be obtained from chief governors, at three thousand miles distance, often ignorant or misinformed in our affairs, and who will not be applied to or reasoned with when they have given instructions. We cannot but esteem those colonies that are under the immediate care of the crown in a much

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more eligible situation; and our sincere regard for the memory of our first proprietary, must make us apprehend for his children, that if they follow the advice of Rehoboam's counsellors, they will like him absolutely lose,—at least, the affections of their people. A loss, which however they affect to despise, will be found of more consequence to them than they seem at present to be aware of.'

The assembly returned in October, for the remainder of the year 1753, and to last till October, 1754, being composed of nearly the same persons as the last, met with the same disposition, and proceeded on the same principles.

To have a sufficient currency was, as we have seen, the great provincial point; and from the facts already stated, it is sufficiently clear, that the proprietary-concurrence therewith was not to be obtained, but upon such terms as even silver and gold could never be worth. The loan-office, which was in the hands of the assembly, was still considered as an over balance for the land-office, in the hands of the proprietary, though they never came into competition, and no benefit could any way result to the province, but the proprietaries were sure to have their share of it.

What encouragement the near prospect of a war furnished to either; and what use was made of it; and at whose door the obstructions given to the public service are to be laid, will best be deduced from the sequel.

With the consideration of the state of their commerce and the accumulated proofs resulting therefrom, that with the increase of their currency, the trade of the province, as well by importations from England as the exportations of their own product, had amazingly increased, the assembly opened their sessions in February, 1754; and taking in also the consideration of their currency with it, came to the following unanimous resolutions. To wit.

'That it is necessary that the paper-money of this province should be re-emitted for a farther time.

'That there is a necessity of a farther addition to the paper-money at present current by law within this province.

'That there is a necessity, that a sum should be struck to

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exchange the ragged and torn bills now current by law in ths province.'

Upon which resolutions, they afterwards ordered in a bill for striking forty thousand pounds, to be made current and emitted on loan, and for re-emitting and continuing the currency of the bills already in circulation; and on the other hand, the governor sent them down a written message, accompanied with a letter to himself from the Earl of Holdernesse, a second from the lords of trade, and a third from the French commandant on the Ohio to Mr. Dinwiddie, deputy governor of Virginia.

The Earl of Holdernesse's letter was dated August 28, 1753, and as it may be presumed, was nearly the same with the other letters, sent at the same time, to the governors of the other provinces.

The contents of it were, "That his majesty having received information of the march of a considerable number of Indians, supported by some regular European troops, with an intention as it was apprehended, to commit some hostilities on parts of his majesty's dominions in America, his lordship had received the king's commands to send him (the governor) intelligence thereof; as also to direct him, to use his utmost diligence to learn how far the same might be well grounded; and to put him upon his guard, that he might be at all events, in a condition to resist any hostile attempts that might be made upon any parts of his majesty's dominions within his government; and to direct him in the king's name, that in case the subjects of any foreign prince or state should presume to make any encroachments on the limits of his majesty's dominions, or to erect forts on his majesty's lands, or commit any other act of hostility, he was immediately to represent the injustice of such proceedings, and to require them forthwith to desist from any such unlawful undertaking; but if, notwithstanding such requisition, they should still persist he was then to draw forth the armed force of the province, and to use his best endeavours to repel force by force. But as it was his majesty's determination, not to be the aggressor, he

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had the king's commands most strictly to enjoin him, the said governor, not to make use of the armed force under his direction, excepting within the undoubted limits of his majesty's dominions: and that, whereas it might be greatly conducive to his majesty's service, that all his provinces in America should be aiding and assisting each other in case of any invasion, he had it particularly in charge from his majesty to acquaint him, that it was his royal will and pleasure, that he should keep up an exact correspondence with all his governors on the continent; and that in case he should be informed by them of any hostile attempts, he was immediately to assemble the general assembly, and lay before them the necessity of mutual assistance, and engage them to grant such supplies, as the exigency of affairs might require."

The letter from the lords of trade, was dated September 18, and imported, "That his majesty having been pleased to order a sum of money to be issued for presents to the Six Nations of Indians, and to direct his governor of New York to hold an interview with them, for delivering the same, for burying the hatchet, and for renewing the covenant chain, they thought it their duty to signify the same; and it having been usual upon the like occasions formerly, for all his majesty's colonies, whose interest or security were connected with or depended upon them, to join in such interview; and that, as the present disposition of those Indians and the attempts made upon them to withdraw them from the British interest, appear to them to make such a general interview more particularly necessary at that time, their desire was, that he, the governor, would lay this matter before the council and general assembly or the province under his government, and recommend to them forthwith, to make a proper provision for appointing commissioners, to be joined with those of the other governments, for renewing the covenant chain, &c. and that the said commissioners might be men of character, ability, integrity, and well acquainted with Indian affairs."

The letter of the French commandant was in answer to the representations of governor Dinwiddie, concerning the

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French incroachments on the Ohio, (for the European regulars mentionedin Lord Holdernesse's letters, were of that nation, though so much caution had been used to suppress the very name) and in very polite terms denied the whole charge.

In the governor's written message accompanying these papers, something was said of each; and of the last rather more (whatever the matter of fact really was) than it seems to contain. The French commandant says, "it belongs to his general at Canada, not to him, to demonstrate the reality of the king his master's right to the lands situated along the Ohio: that he shall forward the letter he has received to him; that his answer would be a law to him; that as to the requisition made to him, to retire, he could not think himself obliged to submit to it; that he was there by his general's orders, which he was determined to obey; that he did not know of any thing that had passed during the campaign, which could be esteemed an hostility; that if the governor had been more particular in his complaints, he had been more particular in his answer, &c."

The governor's comment is in these words, 'An express has this week brought me governor Dinwiddie's account of that gentleman's [Col. Geo. Washington's] return with the answer of the commander of the fort, who avows the hostilities already committed, and declares his orders from the king of France are, to build more forts, take possession of all the country, and oppose all who shall resist, English as well as Indians, and that he will certainly execute these orders as early as the season will permit.'

It is certain, at least, this language was never echoed at home:—and not a little extraordinary it is, to find this gentleman in his very next paragraph, making so very free with the French name, which the secretary of state had been so extremely careful to avoid the mention of.

'Gentlemen (he proceeds to say) French forts and French armies so near us, will be everlasting goads in our sides; our inhabitants from thence will feel all the miseries and dreadful calamities that have been heretofore suffered by

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our neighbour colonies; all those outrages, murders, rapines and cruelties, to which their people have been exposed, are now going to be experienced by ourselves, unless a force be immediately raised sufficient to repel these invaders. It is to be hoped therefore, that as loyal subjects to his majesty, and in justice to your country, you will not fail to take into your consideration the present exigency of affairs; and, as it will be attended with a very considerable expence, and require a large number of men, make provision accordingly, that I may be enabled to do what his majesty, as well as the neighbouring colonies, will expect from a government so populous, and likely to be so nearly affected with the neighbourhood of French garrisons.'

In subsequent paragraphs, he farther informs the assembly, that the governors of Virginia, New York, and the Massachusetts, had made a tender of their assistance to the province, and expressed an earnest desire to act in concert with it; inforces the necessity of a general union of all the provinces, both in council and forces; recommends the appointment of some trusty person to reside, in behalf of the province, among the Indians upon the Ohio; as also the preparation of a bill for better regulating the Indian trade; and concludes with the following stimulative, to wit.

'*Gentlemen*,

'There is so much to be done, and so little time to do it in, the season being so far advanced, and governor Dinwiddie expecting the forces from this province to join those of Virginia, early in March, on Potowmack, that I most earnestly entreat you will not delay the supplies, nor deal them out with a sparing hand, but use all the expedition in your power; for you will undoubtedly agree with me, that so alarming an occasion has not occurred since the first settlement of the province, nor any one thing happened that so much deserves your serious attention.'

A treaty with the Ohio Indians, it is to be observed, had been just concluded at the expence of the province, by three commissioners, two of them selected out of the assembly by the governor; and the necessity of regulating the Indian

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trade had, in the course of the conferences, been made undeniably apparent, by the representations and complaints of the Indian chiefs.

And the reader will of himself be furnished with proper reflections on the Earl of Holdernesse's letters to the governors of the several provinces, imposing the double care upon them, of defending themselves against the encroachments of the enemy, and also against all objections at home, in case of doing it improperly. To say nothing of the peculiar difficulty laid both on the province and governor of Pennsylvania, where there never had been any armed force on a provincial establishment at all.

The assembly took the whole into immediate consideration, and agreed upon the following answer, which was sent up to the governor the same day. To wit.

'The distressed circumstances of the Indians, our allies, on the river Ohio, demand our closest attention, and we shall not fail to proceed in the matters contained in the governor's message with all the dispatch an affair of so much importance will admit of, in which we doubt not to comply with every thing that can be reasonably expected on our part.

'In the mean time, having some days since prepared a bill, which we conceive absolutely necessary, not only to the trade and welfare of this province, but to the support of government, upon the success of which, our deliberations at this time must in a great measure depend; we now lay it before him as a bill of the utmost importance, and to which we unanimously request he would be pleased to give his assent.

Four days the governor and his council employed in considering what return should be made to it; or, rather in searching out such an expedient as should force the province into the measures of the proprietaries, or else, by their refusal embroil them with the government. In his very first paragraph he gave an absolute negative to their bill. He told them, that the product of their present funds was greatly more than sufficient for the support of government; that he hoped to find them better subjects to his majesty, and greater

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lovers to their country, than to make the issue of their bill, in which he and they had an equal right to judge for themselves, the rule of their conduct. 'If, however, (continued he) you should be of opinion, that there will be a necessity to strike a farther sum in bills of credit, to defray the charges of raising supplies for his majesty's service in this time of imminent danger, and will create a proper fund or funds for sinking the same in a few years, I will concur with you in passing a law for that purpose, thinking myself sufficiently warranted so to do, in cases of real emergency.

'And now, gentlemen, I hope you will, upon due consideration, be of opinion with me, that the chief end of your bill will be hereby, in a great measure answered, as the sum to be struck and circulated upon this occasion, will be such an addition to your present currency, as probably may be thought sufficiently for some time.'

The assembly also, in their turn, took a sufficient time for deliberation, and having touched on the unusual manner in which the governor had been pleased to reject their bill, and assumed some merit to themselves, in not suffering any separate interests of their own to interfere with the common good, observed, there was some difference between the royal orders and the governor's manner of representing them; chose therefore to adhere to the former; availed themselves most prudently and sensibly of the cautions so circumstantially recommended and inforced in them, more especially concerning the undoubted limits, and the restrictions thereupon, that his majesty may not be rendered the aggressor; said it would be highly presumptuous in them to judge of those undoubted limits; that instead of being called upon to resist any hostile attempt made upon any part of Pennsylvania, they were called upon to grant such a supply as might enable the governor to raise forces to be ready to join those of Virginia; that therefore they hoped the governor, under these circumstances, would concur with them, that the most prudent part for them would be to wait the result of the government of Virginia, where no provision had as yet been made that they knew of, nor in any of the neighbouring co-

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lonies, though the several governors, in pursuance of the king's command, had made the necessary requisitions of their several assemblies, and they were equally bound by all the ties of general interest. They also superadded the regard due to the scruples of those conscientiously principled against war, yet deeply sensible of the blessings they enjoyed, and willing to demonstrate their duty and loyalty, by giving such occasional sums of money for the king's use, as might be reasonably expected from so young a colony; took notice they had contracted a debt of fourteen hundred pounds for presents to the Indians, and other charges arising from the late treaty, which they should cheerfully discharge, though their proprietaries had refused to contribute any part of their Indian expences; agreed to send commissioners to Albany, as required, though the place was so remote, and to defray the expence, &c.

The difficulty thus retorted on the governor, and his resentment it must be supposed quickened thereby, he takes up the minutes of the last day's sessions of the last assembly, and under the pretence of justifying his own character, revives the old controversy concerning the paper-money instructions, by a long and angry paper sent to the house March 1; and, forgetting what he had formerly said in the following paragraph, 'I do not blame you, gentlemen, for contending for what you are persuaded are your rights and privileges, and consequently can have no objection to your examining the validity of the king's instructions;' flames out as follows, 'Had I been an enemy to the liberties and privileges of the people, or been desirous of gratifying my own passions at their expence, it must be confessed you have furnished me with the fairest occasion a governor so disposed could possibly have wished for. For example, you have voted a clause, proposed to be added to your bill by his majesty's express direction, at the request of his two houses of parliament, to be destructive to the liberties of the people of this province, &c. and have even threatened to examine the validity of the king's instruction, if, by a perseverance in my opinion, I laid you under the necessity of doing it. What

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is this less than declaring, that the lords and commons, and his majesty's privy council, consisting, among others, of the most eminent lawyers in Great Britain, have requested, and his majesty enjoined, an act directly contrary to law?'

And he concludes with making a merit to the province of the moderation he had shewn, in suppressing his sense of the provocations then offered to him, in hopes of a more dispassionate behaviour for the future.

The very next day this paper was followed by another more immediately in point: the governor, therein, undertaking first to defend his negative, and the use he had made of it; and, secondly, so to turn the tables on the assembly, that all the wrong should be on their side, and all the right on his own.

The use made of the different language used by the secretary of state and him, he calls an evasion; and what they ought not, in point of duty, to have taken any advantage of. He then declares he has undoubted assurance, that part of his majesty's dominions, within his government was, at that time, invaded by the subjects of a foreign prince, who had erected forts within the same; and requires them to take notice, that he did then call upon them, pursuant to his majesty's orders, in the present emergency to grant such supplies as might enable him to draw forth the armed force of the province, &c. He then undertook to prove, that the place where the French had then their head-quarters was within the limits of the province; and tells them, that if he did not communicate materials before to assist their enquiries into this fact, so neither had they applied to him for them; that if they had enquired for themselves and suppressed the truth, it was extremely disingenuous; if not, their neglect could be imputed to no other cause than a desire to have a plausible excuse for not paying a proper regard to his majesty's commands; that even on account of the scruples urged, he had looked on governor Dinwiddie's requisition as a very lucky circumstance; seeing, that a requisition from himself would have set the province in the front of the opposition; and a refusal from them, would

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have exposed it to the contempt and derision, as well of the French as our Indian allies; that as the French avow these hostilities, so the Indians, menaced by them, most earnestly besought us, to build places of refuge, to which their wives and children might repair for safety, and also to assist them against their enemies; that instead of being governed by the example of the neighbouring colonies, nothing remained but to give the necessary supplies, and thereby set the example to them, this province having been first invaded and consequently in the most immediate danger; that without this, they could neither keep their treaties with the Indians, nor demonstrate their duty and loyalty to his majesty; that having now done his duty, whatever ill consequences might happen, were to be laid at their door; that with regard to the refusal of the proprietaries, to contribute any part of their Indian expences, it was true, they had refused to do it in the manner expected, and they had given their reasons; but that the proposal made by him, the governor, by their order, in the year 1750 and 1751, in regard to the building a strong trading house near the place then invaded and possessed by the French, could not be forgot; which generous offer[8] had the assembly thought fit to close with, it might, at a small expence, have prevented all the mischiefs impending, and secured a country to the English, which probably might not be recovered without a heavy charge, and the loss of many lives.

Whether the hostilities committed by the French were or were not committed within the bounds of Pennsylvania, became the great question.—The assembly called for evidence; the governor imparted all he could collect; and, after a strict examination of the premises, the assembly chose only to glance at the inflammatories thrown in their way, and to profess their readiness to concur with the governor in whatever might preserve the harmony between the several branches of the legislature, so necessary at all times and especially at a

[8] See the assembly's answer to this charge hereafter, in the time of governor Morris.

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crisis so important, so far as the preservation of their rights and the duty they owed their constituents would permit. Not departing, however, from their former sentiments, nor admitting any one of the articles laid against them; but, on the contrary, maintaining, that the secretary of state's letter could be the only rule of their conduct; and tacitly upbraiding the governor for having suddenly altered the whole connection between Pennsylvania and Virginia, in consequence of such supposed misconduct of theirs: and concluding their replication in these words: 'as governor Dinwiddie had laid before his assembly the Earl of Holdernesse's letter, sent, as we presume, in the same terms to all the colonies on the continent, we judged it most prudent to wait till the assembly of that government had enabled him to act in obedience to the royal commands, especially as they had that letter under their consideration from the first of November last, as appears by the journal of their house of burgesses now before us; but we are now called upon as principals, and the governor is pleased to inform us, that he has undoubted assurance, that part of his majesty's dominions within this government is at this time invaded by the subjects of a foreign Prince, who have erected forts within the same; and calls upon us, pursuant to his majesty's orders in the present emergency, to grant such supplies as may enable him to resist those hostile attempts, and repel force by force: but, as it appears to us that the governor is enjoined by the royal orders, not to act as a principal beyond the undoubted limits of his government; and as, by the papers and evidences sent down and referred to by the governor, those limits have not been clearly ascertained to our satisfaction; we fear the altering our connections with his majesty's colony of Virginia, and the precipitate call upon us, as the province invaded, cannot answer any good purpose at this time, and therefore we are now inclined to make a short adjournment.'

The adjournment they proposed was to the sixth of May; and, before they broke up, the governor again addressed them with another message, in which he also affected to wave several things personal to himself, which, at another

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time, he might have thought it incumbent on him to take notice of; and proceeded to tell them, that had they examined with their usual accuracy the gentlemen, who by his appointment attended their house, and compared their testimony with the written papers at several times communicated to them, he thought it would have appeared so clear to them, that the French had lately erected one or more forts far within the limits of the province, that nothing less than an actual mensuration could have made it more evident; that even taking it for granted, however, the forementioned incroachments were not within the said limits, yet he, having been informed by the governor of Virginia, that hostile attempts had been made on part of his majesty's dominions, and called upon him for the assistance of this province, it was equally their duty, to grant such supplies as the present exigency of affairs required; and, that he could not but be apprehensive, that so long an adjournment would frustrate his majesty's just expectations from them.

This message was dated March 9, and April 2 we find them sitting by his special summons again: the occasion of which was the next day explained in the usual way by message, as follows: 'I am now to acquaint you, gentlemen, that since your adjournment, I have received from governor Dinwiddie, the several papers herewith laid before you; by which it will appear, that he is taking all imaginable pains for the security of his majesty's dominions, so far as the provision made by his assembly will permit him to act; and he is very impatient to know the issue of your deliberations on this subject. I cannot therefore doubt but, that agreeable to the profession in your message of the twenty-seventh of February, "of being ready and willing to demonstrate your duty and loyalty, by giving such sums of money to the king's use, upon all suitable occasions, as may consist with your circumstances, or can reasonably be expected from this province;" I say I cannot doubt but you will, with the greatest alacrity, lay hold on the present opportunity of evincing the sincerity of those professions, by granting such an aid to his majesty, as may comport with the circumstances of the

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province, and be suitable to the exigence of the service. And, in the doing of this, I hope you will be guided rather by the importance of the concern, than by the example of other colonies: it being found by experience to be a very ill-judged piece of economy to cramp an enterprize of this nature in the article of supplies; and that whatever is given on such occasions, short of being sufficient to accomplish the ends proposed, becomes, for the most part, a waste of so much treasure, without answering any of the purposes for which it was intended.

'I have at present only to add my request, that whatever you intend to do on this occasion, may receive all the dispatch the nature of the thing will admit of; the season of the year for action advancing so fast, that unless our measures be speedily taken, they will, I fear, be rendered altogether unserviceable.'

Upon the fifth, after many debates, it was resolved, by a small majority, that a sum of money should be given for the king's use; and what the sum should be, occasioned many debates more. Twenty thousand pounds being proposed on the ninth, it passed in the negative by a majority of twenty-five to eight; reduced to fifteen thousand pounds, it passed in the negative twenty-three to ten; reduced to ten thousand pounds, it passed in the negative twenty-two to eleven; and again reduced to five thousand pounds the next day, it again passed in the negative twenty-two to ten. Those who had hitherto led the house, voting affirmatively; and, on the contrary, those who had hitherto voted affirmatively, going over to the remainder of the negatives. And this apparent perplexity was, in their reply to the governor's message, thus accounted for: 'And we now beg leave to inform the governor, that we have had that message under our serious consideration ever since it came down to the house; but after all our debates thereupon, we find that nearly one half of the members are, for various reasons, against granting any money to the king's use at this time; and those who are for granting, differ so widely in their sentiments concerning the sum, that there seems at present no possibility of their agree-

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ing, except in such a sum, as, in the judgment of many of them, is quite disproportionate to the occasion: therefore, and that the members may have an opportunity of consulting their constituents on this important affair, we are now inclined to adjourn to the thirteenth of the next month.'

According to their adjournment, the house met again, May 6, and were informed by the governor of the arrival of a body of French forces, consisting of upwards of one thousand men, before the fort building by the Virginians on the Ohio, and the surrender thereof. He also laid before them the dispatches he had severally received from governor Dinwiddie of Virginia, concerning the state of that province, and the succours he wanted and expected; and from governor Delancy of New York, concerning the interest of his majesty's colonies in general, as well as of Pennsylvania in particular; and said, 'he hoped they would have their due weight with them in their deliberations and advice.' The proposals made by the governors of Boston and New York for an union of the several colonies in Indian affairs, he then recommended to them earnestly, as agreeable to his own sentiments, and likely to be productive of more real benefit, at much less expence than the method hitherto in use of making frequent and distinct presents to the Indians, &c. And he desired to be enabled to instruct the commissioners to be sent from their province, to concur with those of the other colonies, in case a reasonable plan should be offered.

A joint bill for granting an aid to the king, and replacing torn and ragged bills of credit, was the result of their first day's debate; and after several divisions, the several sums were settled at ten thousand pounds for the king and twenty thousand for the other purpose.

The commons of Great Britain will not suffer a money-bill to be amended: the lords may reject, his majesty may refuse his assent, but what they give, they give upon their own terms.

In Pennsylvania a money-bill exacted from the province, by all the considerations which could affect generous minds, or intimidate weak ones, the dread of an enemy at the gates,

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and of incurring both the royal displeasure and the public odium, for not making a seasonable provision against his approaches, could not be accepted without amendments.

Even this bill, at such a crisis offered, and for such a service, was returned by the governor, with amendments, prefaced with a written message, of which the two following were the most material paragraphs: viz.

'Considering the royal instruction laid before the assembly last year, it must be apparent that I have, merely from a desire to oblige you, consented to raise the money intended for his majesty's use in the manner by you proposed. And have prolonged the currency of the bills of credit, to be issued in virtue of the bill now under consideration, as far as I can think consistent with my own safety.

'And, as the fund to be established upon the foot of my proposed amendment will be more than sufficient to repay the sum granted by the bill, I can see no reason for extending the act of excise longer than four years beyond the date of its present limitation, or for burthening the people unnecessarily with a tax that possibly may not be wanted.'

And these proposed amendments restored unanimity to the house; for, whereas they had been divided many ways in the course of the bill, they now acted with one will and one voice, in rejecting that concerning the excise, which manifestly took its rise from proprietary considerations only; and for the sake of which, either the service of the public was to be neglected, or the province to give up its understanding.—The latter exceeded the power of persuasion; and the former they left those to answer for, to whom it belonged.

Their reply to the governor on this occasion was as follows: 'the house are not inclined to enter into any dispute with the governor on the subject of his proposed amendments to the money-bill; as the representatives of the people have an undoubted right to judge, and determine, not only of the sum to be raised for the use of the crown, but of the manner of raising it.

'The governor, in his message of the nineteenth of Fe-

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bruary, was pleased to tell us, "That, if the house should be of opinion that there will be a necessity to strike a farther sum in bills of credit, to defray the charges of raising supplies for his majesty's service in this time of imminent danger, and would create a proper fund or funds, for sinking the same in a few years, he would concur with us in passing a law for that purpose, thinking himself sufficiently warranted so to do in cases of real emergency."

'On this assurance the house have prepared a bill, and presented it to the governor, to strike the sum of ten thousand pounds, to give the same to the king's use, and to sink it by an extension of the excise act for a farther term of ten years. The governor will be pleased to consider, that his predecessor, to whom the mentioned instruction was given, did afterwards pass an act of the same kind, extending the excise act ten years (now near expired) for a grant of five thousand pounds only; and we never heard that he incurred the royal displeasure for so doing. As the sum we grant is double, we had no expectation that our proposing the same term would have been deemed extravagant. The governor thinks four years sufficient; but, as the representatives are best acquainted with the circumstances of the people, and must themselves, as a part of the people, bear a share of all burthens laid upon them, it seems not reasonable to suppose they will lay such burthens unnecessarily. They now offer ten thousand pounds to the crown, and propose a manner of raising it, that they judge most easy and convenient for the people they represent: and, if the governor thinks fit to refuse it, merely from an opinion that a shorter term for sinking the bills would be more easy for the people, we cannot but suppose, that, since the messages in which he so warmly recommended this affair to us, he has, on farther advices, or better consideration, changed his sentiments of the importance of the present occasion for supplies, and doth not now think the danger so imminent, or the emergency so great or so real, as he then apprehended it to be.'

They also intimated at the same time, that, it being an inconvenient season for the members to be absent from their

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respective homes, they desired the governor to let them know his result as soon as possible.

And upon the next day but one this result came, and proved to be of a nature altogether extraordinary. Having charged the assembly with laying down a position in their last message, derogatory to the rights of government; in maintaining, that the representatives of the people have an undoubted right to judge and determine, not only of the sum to be raised for the use of the crown but of the manner of raising of it, he first acknowledges that right, and then whittles it away, by arguing, it was not an exclusive right; one half of the legislative powers being vested in the governor. After which he goes on to say, that he had neither objected to the sum, though he wished it had been larger and more seasonably granted, nor to the manner of raising it, though he could have also wished it had not been by compelling him to depart from the letter of his majesty's instruction, but only to the extension of the fund, whereby the money is proposed to be repaid, to an unnecessary length, by which a tax was to be laid and continued upon the people without the least apparent necessity: and that he was sorry to find, they were not satisfied with a fund by which the ten thousand pounds granted to his majesty would be repaid in the easiest manner in six years, and leave a surplus of several thousand pounds in their hands to be disposed of as they thought fit; and that, for the said ten thousand pounds so granted, they were desirous of obtaining more than three times the sum for themselves: that the example of any former governor was not to be a rule for him: but that, however, if they would inlarge the sum given for his majesty's use, he would extend the time for repaying it in the same proportion already allowed in his amendment, which he should not otherwise recede from; that it was possible more might be concealed under this solicitude for so long an extension of the excise than they were willing should be discovered:—and here a paragraph occurs, which does indeed make a discovery, and which will be of singular use to the intelligent reader through the whole course of the controversy, viz. 'It is well known

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that by the laws now in force, the public money is solely in the disposal of the assembly, without the participation of the governor; nevertheless, while these acts, by which money was raised, were of short duration, the governor had now and then an opportunity of obliging the assembly in a very essential manner by a renewal of those acts, and thereby of making himself acceptable to them; but to extend them to such an unreasonable length of time as you now desire, might be to render him in a great measure unnecessary to them during the continuance of those acts, but upon terms very disagreeable to himself, as well as injurious to his constituents: to this condition therefore I will not be the means of reducing any successor of mine; and this circumstance is of no small additional weight with me to adhere to my amendment.' He then desires them to observe, that the question between them, is not, which is best acquainted with the circumstances of the people? but whether it was reasonable to burden them with an unnecessary tax: assures them, they are exceedingly mistaken if they really supposed he had either changed his sentiments with respect to the importance of the present occasion for supplies, or that he was less apprehensive of the dangers the province was then exposed to from the invasion of a foreign power than before; makes a merit of having gone farther in his condescensions to please them, than he was warranted to do, by the king's instruction, unless they made an addition to the supply, by extending their currency a year longer than the utmost term allowed to the eastern governments by the late act of parliament; adds, that he well knew the state of their funds, and that the loan-office itself, were the money duly collected, was able to furnish a much larger sum than the sum granted upon this important occasion, independent of the interest hereafter to accrue, &c. That such being the favourable state of their finances, in declining to do what his majesty so justly expected from them, merely because he, the governor, would not wholly depart from his instruction, they became more justly chargeable with a wanton disregard of his majesty's commands, than he could possibly be with the lukewarmness imputed to him,

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which he had the greatest detestation of: and with a mixture of persuasion and menace, he came to a conclusion as follows, 'let me therefore, gentlemen, recommend to your serious attention, a review of your conduct upon the present occasion, and if you shall find that you have been too precipitate in the resolution contained in your message, let me intreat you to rectify it before it be too late; for, as I must be obliged soon to lay this whole transaction before his majesty, it would give me the greatest pleasure that both you and I might receive his gracious approbation of our services. But if, contrary to my hopes, you should still persist in refusing to accept of my amendment, and the bill should by that means be lost, I cannot but apprehend some unhappy consequences to the province from your extraordinary behaviour.'

There is, one would think, a magical power in government capable not only of altering, but even reversing the forms, colours, and essences of things; to common sense it seems evident, that the people give, and the governor refuses to accept; and that the said governor by avowing proprietary and deputy-government-reasons for such his refusal, avows, that the king's service and the people's safety are but subordinate considerations.....but our own eyes are not to be trusted it seems.....none of this is so.....if the people do not do all that is required of them, and in the manner required, they do nothing; and all the mischiefs that ensue are to be laid at their door.

The assembly were not, however, to be amused by the waving of a government-wand; but on the contrary having bestowed as much time upon the affair as was necessary for a thorough discussion of it, came to a course of spirited resolutions; of which the most material and perspicuous are those which follow, viz.

'That the raising of money for support of government and other public uses, by an excise on spirituous liquors, hath been practised in this province, with very little intermission, for more than thirty years past, and hath not been found,

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communibus annis, to produce more money than was necessary for those uses.

'That the raising money by such excise, has by experience been found less burthensome to the people, than the method of poll and pound rates; and hence the load of public expence hath been more cheerfully borne, government more liberally supported, those who serve the public better and more punctually paid, and greater sums given from time to time to the king's use, than could otherwise have well been raised.

'That if the excise act be extended but four years, and the sum of ten thousand pounds is to be sunk thereby in that term, yearly provincial taxes by poll and pound rates (always more grievous to the people) must probably in a short time become necessary, to defray the usual and contingent expences of the government.

'That if there really were, which is very uncertain, so great a sum outstanding due to the public, as if collected, would be in the disposition of the house, and sufficient to answer the present emergency; yet, to inforce the collection suddenly, by seizing and selling the estates of the delinquent borrowers, in this time of scarcity of money, when so many plantations being offered at once to sale, could not probably find a sufficient number of good purchasers, and must consequently sell for much less than their real value, would be cruel, oppressive, and ruinous to the people.

'That the right of judging and determining, not only of the sum necessary to be raised for any public service, but of the time and manner of raising it, and term for paying it, is solely in the representatives of the people; and that the governors of this province have not, nor ever had, nor can have, any right to interfere therein, under pretence of rectifying mistakes, easing the people, or any other pretence whatever.

'That a just, upright and prudent administration of government, will always be the best and most effectual means of obtaining and securing the affections of the people; and

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that it is neither necessary nor expedient to deny the present assembly the exercise of their just rights, that a future governor may have an opportunity of obliging a future assembly by permitting it.

'That an act of parliament made expressly to remedy disorders in the eastern governments, and in which this province is neither named, nor intended, cannot by any construction be supposed binding on the governors or assemblies of Pennsylvania.

'That to refuse a grant of ten thousand pounds to the king's use at this critical juncture, when the service of the crown, and the welfare, present and future, of all the British colonies, seem to the governor so eminently to demand supplies, merely from an opinion in the governor, that he can judge better than the people's representatives what is most for their ease, or that a future governor may have an opportunity of making himself acceptable, appears to this house to be sacrificing too much, to considerations of uncertain and small moment.

'That we have now offered the governor a bill for granting ten thousand pounds to the king's use, to be sunk by extending the excise for ten years, (a bill of the like tenor of that of 1746 [passed by governor Thomas] for granting the sum of five thousand pounds to the king's use, to be sunk by extending the excise for ten years) to which he has been pleased to refuse his assent.

'That as the governor [in his message of the 1st of March last] acknowledged the term of ten years for extending the excise to sink the five thousand pounds, was "a short space of time," and that there was not the least probability of that act's producing any of the inconveniencies complained of;" the same term of ten years for extending the excise to sink ten thousand pounds, must, in consequence, be allowed a "short space of time:" and, the bill he now refuses being of the same tenor, there cannot be "the least probability of its producing the inconveniencies complained of; the preventing of which for the future appears clearly [to the governor] to have been the sole end and purpose of the royal instruction."

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'That the governor having, as he hoped, [to use his own words] "incontestably proved, that the true and real intention of the royal instruction could have been no other than to guard against the abuses enumerated in the body of it; and the act for granting five thousand pounds for the king's use, passed by the late governor, in 1746, being of a singular and quite different nature from acts passed upon ordinary occasions, could not be comprehended within the meaning of the said instruction:" the bill now offered to the governor for granting ten thousand pounds for the king's use, being also of a singular and quite different nature from acts passed upon ordinary occasions, and of the same tenor with the act passed in 1746, cannot be comprehended, by the governor, (unless he has very lately altered his opinion) to be within the meaning of the royal instruction; and therefore,

'That it is our opinion, that if the governor is restricted by any instruction from passing this bill, it must be by some instruction which he has never been pleased to lay before this house,—and not the royal instruction, the operation of which, against bills of this tenor, he hath so effectually invalidated.

'That this house will this day adjourn to the nineteenth day of the month called August, next.'

Before they adjourned, however, and without any mention made of these resolutions, they addressed the governor by message; in which, having civilly and thankfully observed the care he had taken, to obtain the best intelligence he was able of what was proposed to be transacted at the ensuing treaty to be held at Albany, &c. they proceeded as follows. 'And as he has been pleased to request our sentiments on the instructions to be given the gentlemen commissioners on the part of this province, "to which he will pay the greatest regard," we can do no less than return him our grateful acknowledgments for his condescension and justice; and would cheerfully comply therewith at this time; but when we consider, that no propositions for an union of the colonies, in Indian affairs, can effectually answer the good purposes or be binding farther than they are confirmed by laws, enacted

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under the several governments comprized in that union; that we know not what restrictions the governor may lie under in passing our acts; and that we have very little reason to depend upon any assistance in our Indian expences, whereby a former assembly, it has been respectfully addressed for, and where we think in justice we have a right to expect it; we are, under these circumstances, at a loss to advise him on the important articles he has been pleased to propose to our consideration. Nevertheless, as we have already declared our satisfaction in the gentlemen the governor has been pleased to name for this commission, so we confide in their abilities and prudence to answer the ends proposed in the letter from the lords of trade, of the eighteenth of September last, by renewing at this interview, the covenant chain with the six nations, and by frustrating, as far as lies in their power, any attempts which have been made to withdraw them from the British interest: and for this purpose, in compliance with the said letter from the lords of trade, we have now granted a present to be made to those Indians on our behalf, however inconvenient we may judge it to hold our treaties at Albany on other occasions'.

Lastly: the governor also, on his part, desired the members sent with this message to acquaint the house, that as some parts of the minutes of that session might be necessary to be mentioned in the representation the governor found himself obliged to make to his majesty, in answer to his royal order, in relation to the invasion of his dominions by the French and their Indian allies, he desired the house would order a copy thereof to be delivered to him: and an order was thereupon made, that the said minutes might be delivered to him accordingly.

Their next meeting was on the 7th of August following, by special summons: upon which occasion, the governor, having sent for the house, acquainted them with Washington's defeat, and in the most solemn manner (his words) recommended to them a cheerful and vigorous resolution of dislodging from the neighbourhood of their settlements, [not the settlements themselves, or parts unsettled *far within* the limits of

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the province, as before confidently asserted from *undoubted assurance*] not indeed as principals, but in concurrence with the government of Virginia, when the determinations taken there should be communicated to them—urging, that in the mean while it would be highly expedient to take into consideration the most proper ways and means of raising a supply for this service; and that in doing thereof, they should industriously avoid whatever might be likely to occasion any difference of opinion between him and them, to the detriment of the common cause, &c. That some provision should be made for the support of such Indians as, flying from the enemy, had taken refuge amongst their brethren of Pennsylvania; that the inhabitants on the frontiers; had also by their petitions applied to him for protection; that the defenceless state of the province in general, demanded their special consideration: that it was become his indispensable duty to press it upon them accordingly, &c. And in the close of all he expressed himself as follows.

'It is with great satisfaction, that I now communicate to you the proceedings of the commissioners at the late treaty at Albany; as, on perusal thereof, you will clearly perceive, that the lands on the river Ohio do yet belong to the Indians of the Six Nations, and have, long since, been by them put under the protection of the crown of England. That the proceedings of the French in erecting forts on that river, and in the countries adjacent, have never received the countenance or approbation of those nations; but, on the contrary, are expressly declared by them, to have been without their privity or consent. That they are greatly alarmed at the rapid progress of the French, and in severe terms reproach us with supine negligence, and the defenceless state of our possessions; and, in effect, call upon us to fortify our frontiers, as well for the security of their countries as of our own.—That after a due and weighty reflection on these several matters, with many others of equal importance, the commissioners thought it necessary to consider of, and draw up a representation of the present state of the colonies: and from thence, judging that no effectual opposition was like to be made to

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the destructive measures of the French, but by an union of them all for their mutual defence, devised likewise a general plan for that purpose, to be offered to the consideration of their respective legislatures.

'And as both those papers appear to me to contain matters of the utmost consequence to the welfare of the colonies in general, and to have been digested and drawn up with great clearness and strength of judgment, I cannot but express my approbation of them; and do therefore recommend them to you, as well worthy of your closest and most serious attention.'

The particulars contained in this speech were also inforced by several papers communicated at the same time: and the house taking the premises into consideration, after various debates, divisions, rejections, &c. agreed to a bill for striking the sum of thirty-five thousand pounds in bills of credit, and for granting fifteen thousand pounds thereof for the king's use, and for applying the remainder to the exchange of torn and ragged bills: which, being presented to the governor, produced the following answer, viz.

'The governor promised himself from the request he made to the house in his speech at the opening of the session, that (considering the importance of the occasion) they would have fallen upon some method of raising money for the king's use to which he might have had no material objection; and could not help therefore being extremely mortified at finding the bill now presented him for that purpose, to be not only formed on the said plan, but to be nearly of the same tenor with that to which he refused his assent at their last meeting. He has nevertheless complied with the proffer he then made them, and has agreed to extend the fund they have chosen to raise the money upon, in the same proportion as they have increased the sum granted to his majesty. But the house is peremptory, and will admit of no alteration in their bill. All then that remains, after assuring them that the governor, lest the king's services should suffer, has strained his powers even beyond what he almost dares think consistent with his safety, is, to submit our respective conduct to the judgment of our

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superiors. But he hopes this also may be rendered unnecessary by the arrival of the gentleman that is to succeed him in the administration, who may every day be looked for among us: and who may possibly think himself more at liberty with respect to the matter in controversy, than the governor can presume to do. In the mean while it is hoped no considerable detriment may arise to his majesty's affairs in the short interval between this and the time of his actual arrival.

'So much has already been said upon this subject on another occasion, that the governor declines any farther enlargement thereon, as well knowing that public disputes of this nature frequently terminate in private animosities, which he is very desirous of avoiding; and therefore only expects from the house that they will do him the same justice he is willing to do them, in supposing him to act from his judgment, when he tells them that he cannot recede from his amendments.'

This was the last act of Mr. Hamilton's government. Weary of a service, which he found incompatible, if not with his notions of honor, at least with his repose, he had desired to be dismissed; and was succeeded by Robert Hunter Morris, Esq.

In the beginning of October, 1754, much about the time of Mr. Morris's arrival at Philadelphia, a new assembly was to be chosen in the course of the year, and had been chosen accordingly.

To these summoned, according to form, up to his council-chamber, the new governor made a short speech; importing, 'his persuasion that the proprietaries had nothing more at heart than the welfare and prosperity of the people: his own self-flattery that it was from the opinion that they had entertained of his disposition to promote the general happiness to the utmost of his power, they had made choice of him: the resolution he had taken not to disappoint them: assurance, that he should, upon all occasions, be studious to protect the people committed to his charge in their civil and religious privileges, and careful to maintain the just rights

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of government, as equally conducive to the public good: a recommendation, in particular, of the state of the frontier both of that and the neighbouring governments; where they would find the French acting with a steady uniformity and avowed resolution to make themselves masters of the country; an interspersion of certain stimulatives, drawn from a contemplation of the miseries they would be exposed to, in case they suffered the enemy to strengthen themselves in their posts; and an earnest call upon them, in his majesty's name, to exert themselves at that critical juncture in defence of their country. And lastly, a declaration, that if they should find any laws wanting for the better government of the province, he should be ready to enter upon the consideration of such as they should propose, and give his consent to such as he should think reasonable.'

More doubts than confidence, it may be presumed, this speech excited; for the assembly having, upon the report, bestowed some time in the consideration of it, thought fit to call for a copy of the governor's commission, as also of the royal approbation, before they proceeded to answer it.

This answer was also as dry, and as cautiously worded, as the governor's speech. They echoed back what parts of it they could; and they joined issue with the governor in promising with the same sincerity, to contribute every thing in their power to support him in the exertion of the just rights of government, conducive to the good ends by him specified. After which they proceeded in these words: 'the encroachments of the French on his majesty's territories, and their hostile proceedings in this time of peace, are truly alarming; and as they have been long since known in Great Britain, we were in hopes, on the governor's arrival, to have received instructions from the crown how to conduct ourselves on this important occasion: but as we have not had any such laid before us, the royal order sent to the several colonies by the Earl of Holdernesse, in his letter of the twenty-eighth of August, 1753, appears to be the only rule by which we can now act with safety. And as we find our late assembly did what was most consistent with the trust reposed in them,

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to comply therewith, the governor may likewise depend upon our doing whatever can be reasonably expected from us for the good of this province, or the general interest of the British colonies on the continent, whenever our assistance can be applied to any valuable purpose. But at present, as we know not where to direct our aid, and as this has not been the usual time of doing business, occasioned by the governor's being obliged to give his attendance elsewhere, we are inclined, if he has no objection, or any thing farther to lay before us, to make a short adjournment; and if, during our recess, any matters of importance should come to his knowledge, we shall cheerfully attend the governor's call of our house, and contribute our assistance for the public good.'

The result was, that the governor thanked them for their speech, and concurred in their proposition; upon which they adjourned accordingly.

In the beginning of December they met again, and then the governor communicated a letter from Sir Thomas Robinson, secretary of state, dated July 5, 1754; by which it appears, that for upwards of ten months, the case of the northern colonies, actually invaded by the French, had not been made the foremost point of consideration here at home; and that the Americans were in a sort of disgrace at court, for not having broken through all the cautions laid upon them before, and assumed and exercised all the powers of government in taking care of themselves.

Let the reader judge for himself.

'SIR, *Whitehall, July 5*, 1754.

'Your letter of the 25th of November last, in answer to the Earl of Holdernesse's of the 28th of August, having been received and laid before the king, I am to acquaint you, that it is his majesty's express command, that you should, in obedience thereto, not only act vigorously in the defence of the government under your care, but that you should likewise be aiding and assisting his majesty's other American colonies, to repel any hostile attempts made against them; and it was with great surprize, that the king observed your total silence upon that part of his majesty's

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orders, which relate to a concert with the other colonies, which, you must be sensible, is now become more essentially necessary for their common defence, since the account received by you from major Washington, with regard to the hostilities committed by the French upon the river Ohio, which verify in fact what was apprehended when the Earl of Holdernesse wrote so fully to you in August last, and which might have been, in great measure, if not totally prevented, had every one of his majesty's governments exerted themselves according to those directions, the observance whereof I am now, by the king's command, to inforce to you in the strongest manner.' I am, &c.

The governor also accompanied this letter with a speech, in which occur the following curious particulars, viz.

'From the letters and intelligence I have ordered to be laid before you, it will appear that the French have now, at their fort at Monongatula, above a thousand regular troops, besides Indians; that they are well supplied with provisions, and that they have lately received an additional number of cannon; that their upper forts are also well garrisoned and provided; and that they are making a settlement of three hundred families in the country of the Twigtwees, at the south-west end of the lake Erie.

'From those papers you will likewise be informed of the use they have made of their last year's success among the Indians of the Six Nations, having prevailed with many of them to remove to Canada, who will either be neuter in the present dispute, or take up arms against us, while such few of the Indians, as still retain their attachment to the English, dare not be active for us, till they see a force in the field superior to that of the French; and if that be not soon, they will certainly give up our cause, and embrace the tempting offers made them by the French.

'Gentlemen, it is now several years since the French undertook this expedition, and we have long had full intelligence of their designs, and of the steps they have taken to carry them into execution: their progress indeed has been very surprizing, owing chiefly to the inactivity of the Eng-

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lish colonies, who, I am sorry to say, have looked with too much indifference upon an affair that must end in their ruin, if not timely prevented.'

[Poor colonies! exposed on one hand! censured on the other!]

In a subsequent paragraph he also proceeds as follows:

'These incroachments of the French upon the territories of the crown of Britain in America, have turned the eyes of Europe to this quarter of the world, as it is uncertain what effects they may produce. The conduct, therefore, of these colonies will be more than ever the object of their attention, and ours in particular who are most immediately concerned: for whether the French forts are within the particular limits of this province or not, I look upon to be very immaterial in the present case, though in my opinion they are clearly so: but be that as it may, our situation at present is certainly very alarming: the French on our borders are numerous, strongly fortified, well provided, and daily increasing; the small body of English troops on the frontiers, weakened by the desertion from the independent companies, and the want of discipline in the new levies; the Six Nations of Indians, formerly our firm friends, divided among themselves, many of them gone over to the French, and others wavering and in doubt whether to follow their brethren, or continue with us; the neighbouring provinces (except Virginia) though nearly interested in the issue of the present affair, either contributing nothing towards the common cause, or sparingly: and though Virginia has indeed given thirty thousand pounds, yet it will avail but little, unless a considerable body of troops be sent from this province, and kept up till the work is done.

'Permit me therefore, gentlemen, to press this matter upon you: exert yourselves upon the present occasion; dissipate the cloud that hangs over your country, and save her from the threatened destruction. His majesty, ever anxious for the welfare of all his subjects, excites and commands us; the eyes of a British parliament, of the people of our mother country, of the other American colonies; and even

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of all Europe, are upon us; and the fate of this country, the happiness or misery of your posterity, very much depend on your resolutions.'

Thus Pennsylvania alone must be put in the front of the battle, must undertake for all, pay for all, &c. and is goaded on so to do by the very proprietaries and their deputy, who should have stood in the gap, and endeared themselves to the province, by endeavouring to have the load laid as equally on the whole continent, and the effort made as generally as possible.

It is visible, the governor's name signified nothing, whether Hamilton or Morris, except that the hardest driver was sure to be the best thought of by his employers: and it was but natural, that the assembly should be as resolute to continue the province in such a state as might render it worth preserving, as they were willing to contribute whatsoever they properly could towards its preservation. Pennsylvania was more dear to them for the excellency of its constitution, than the excellency of its soil; and whatever the narrow notions of proprietaries may be, as the liberty of the province is diminished, the value of their possessions in it will diminish in the same proportion.

To discharge all duties at once, therefore, they again put the demands for the general service, and those for the particular interest of the province, upon the same footing, by the old expedient of a currency bill, providing for striking the sum of forty thousand pounds in bills of credit; one moiety for the king's use, and the other for replacing damaged bills: which they sent up to the governor for his concurrence, with a written message, of which what follows was the most material part.

'Though we hope the number of the French, and their Indian allies, mentioned in George Croghan's letters are full large, yet the uncommon efforts they have made towards obtaining a possession on that part of his majesty's dominions, are truly alarming, and dangerous to the British interest in North America: and we have good reason to believe, the sums granted the king by our late assembly, had the then

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governor been pleased to pass the bills offered to him for that purpose, "might in a great measure, if not totally, have prevented the bad situation of our affairs at present," and have placed our duty to the best of kings, as we desire it should always appear, among his most loving and loyal subjects. And for this reason, it is with concern we find, by the above mentioned letter from the secretary of state, "That it was with great surprise the king had observed, in our late governor's answer to the earl of Holdernesse, he had been totally silent on that part of his majesty's orders, which relate to a concert with the other colonies." 'But as we have great confidence in our governor, that he will at all times afford us all good offices and protection, and will be pleased to represent us and our affairs in a favourable light, as we hope he may do with great justice; so, on our part, we shall not fail to contribute every thing in our power to answer all reasonable expectations from so young a colony, so far as is consistent with our civil and religious liberties; beyond which, under so good a king, we are well assured nothing further will be asked or expected from us: and, in return for the governor's justice and protection, it will give us particular pleasure to make his administration in this province easy to himself, and honourable to all.'

Amazing was the answer by the governor, on the sixth day afterwards returned: for having, at his very outset, taken shelter under the old exploded instruction to governor Thomas, and Ryder the attorney general's opinion upon governor Hamilton's case, delivered in the following compendious manner: 'I am of opinion, it is by no means safe or adviseable, or consistent with his duty, to pass such bills, without a suspending clause;' and suggested, that he could not by any means agree to the said bill, because forbid by the said instruction, without such a clause. He then proceeded to say, 'however, as the act of parliament restraining the four eastern governments from emitting paper-currency, gives them a power to strike bills of credit in case of emergency, I hope I shall be justified in thinking the reason holds good as to us who are in the greatest danger, being already invaded

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by the French, and in immediate expectation of outrage from the Indians in their alliance: I will therefore join with you in any bill for striking what sum you shall think our pressing occasions demand, provided a fund be established for sinking the same in five years.

'I am exceedingly obliged to the house for their kind sentiments with regard to me, and shall make it my peculiar care so to act as to merit the continuance of their good opinion; and can truly say it is no small mortification to me to be obliged to differ in opinion from the representatives of the province, who, I am convinced, act from upright motives, and what they esteem to be its true interest; but would willingly hope, when they come to reflect on the obligations I am under to pay obedience to his majesty's instructions, that they will not press me to disobey them; especially when they consider, that, should I disregard my own honour and safety in passing a bill circumstanced as this is, there is great danger of its being disapproved by his majesty; and what loss and confusion such an event would cause in the province, by the paper-bills becoming of no value, I need not particularly mention.'

From the year 1740, down to the time of this altercation, his majesty's ministers had never once interfered in this dispute; nor in these requisitions from the secretary's office, in the king's name, of aids from his American subjects, is the least trespass on the right of the subject, by any injunction direct or indirect concerning the mode of raising these aids, to be traced: and yet this petty proprietary governor dares to make a bugbear of his majesty's disapprobation, at the same time, and in the same breath that he leaves a gap for dispensing with the very instruction he pleads, provided the proprietary turn is served, of reducing the term to five years.

It is moreover reasonable to think the governor had in his hands at this very time a third letter from the secretary of state, now Sir Thomas Robinson, dated October 26, 1754: for on the very next day after this message was delivered, he sent down a copy of the said letter to the house, accom-

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panied with another written message so timed and constructed, as to render it as embarrassing as possible.

This third letter imported, that the ministers had at last come to a resolution of taking some measures of their own for the defence of America. Amongst others it was said, the king had commanded two regiments of foot, consisting of five hundred men each, to repair to Virginia, there to be completed to seven hundred; as also to send orders to governor Shirley and Sir William Pepperell, to raise two regiments of one thousand men each; for which officers were to be appointed, and to repair to America forthwith; all to be commanded in chief by a general officer of rank and capacity, accompanied by a deputy-quarter-master-general, and a commissary of the musters, who were likewise to set out as soon as conveniently might be, in order to prepare every thing for the arrival of the regiments to be sent, and those to be raised. What follows is in the very words of the letter, viz.

'You will receive from that general, and the other officers just mentioned, a full and exact account of the arms, clothing, and other necessaries, to be sent upon this important occasion; as likewise of the ordnance stores, and of the officers and attendants belonging thereto: all which being ordered for this service, are such proofs of his majesty's regard for the security and welfare of his subjects in those parts, as cannot fail to excite you to exert yourself, and those under your care, to take the most vigorous steps to repel your common danger; and to shew that the king's orders, which were sent you last year by the Earl of Holdernesse, and were renewed to you in my letter of the 5th of July, have at last roused that emulation and spirit which every man owes at this time, to his majesty, the public, and himself. The king will not therefore imagine, that either you, or the rest of his governors, will suffer the least neglect or delay in the performance of the present service, now strongly recommended to you, particularly with regard to the following points, viz. That you should carefully provide a sufficient quantity of fresh victuals, at the expence of your govern-

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ment, to be ready for the use of the troops, at their arrival. That you should likewise furnish the officers, who may have occasion to go from place to place, with all necessaries for travelling by land, in case there are no means of going by sea; and that you should use your usmost diligence and authority in procuring an exact observance of such orders as shall be issued from time to time, by the commander in chief, for quartering the troops, impressing carriages, and providing all necessaries for such forces as shall arrive, or be raised within your government.

'As the articles above-mentioned are of a local and peculiar nature, and arising entirely within your government, it is almost needless for me to acquaint you, that his majesty will expect, that the charge thereof be defrayed by his subjects belonging to the same. But with regard to such other articles, which are of a more general concern, it is the king's pleasure, that the same should be supplied by a common fund, to be established for the benefit of all the colonies collectively in North America; for which purpose you will use your utmost endeavours to induce the assembly of your province to raise, forthwith, as large a sum as can be afforded, as their contribution to this common fund, to be employed, provisionally, for the general service of North America, particularly for paying the charge of levying the troops to make up the complement of the regiments above-mentioned, until such time as a plan of general union of his majesty's northern colonies, for their common defence, can be perfected.

'You will carefully confer, or correspond, as you shall have opportunities, upon every thing relative to the present service, with the said general, Sir William Pepperell, and governor Shirley, or either of them; and as it is the king's intention to give all proper encouragement to such persons who shall engage to serve upon this occasion, you will acquaint all such persons, in the king's name, that they will receive arms and clothing from hence, and that they shall be sent back, if desired, to their respective habitations, when the service in America shall be over.

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'As the several governors in all the king's provinces and colonies in North America will receive, by this conveyance, a letter to the same effect with this which I now send you, they will be prepared at the same time to obey his majesty's commands.—And I am to direct you to correspond with all, or either of them, occasionally, as you shall find it expedient for the general service.'

It is plain by the general drift of this letter, that it related equally to every governor and every government of North America: and yet the governor of Pennsylvania did his best to narrow the application of it to Pennsylvania only. These are his words: 'you will observe by the secretary of state's letter, that it is his majesty's pleasure we should contribute as far as we can to the having about three thousand men in readiness to enlist; that we should provide a quantity of fresh provisions for the troops, and necessaries for the officers that may have occasion to travel by land; that the orders to be issued by the commander in chief for quartering the soldiers, and impressing carriages, should be carried into exact execution; and that all necessaries should be provided for such troops as shall arrive, or be raised within this government.—His majesty expects, that as the several articles above-mentioned are of a local and peculiar nature, and arising entirely within this government, that the charge thereof should be defrayed by his subjects within the same.'

To both these messages the assembly immediately applied themselves, to prepare suitable answers; and, beginning with the first, among other things said, 'We have the misfortune to differ in opinion from the governor, after considering the case maturely as it now lies before us; nevertheless, we do assure him, that though in a matter of small importance we might not, perhaps, be very tenacious of our own sentiments; yet, in this case, our all is concerned, and if we should not act becoming the rights our birth, as Englishmen, intitles us to, we might appear unworthy of the regard we have already experienced, and have good reason to hope for hereafter, from a British parliament.'

'It appears that the case, as stated to the attorney-general,

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regards only emissions of bills of credit on common and ordinary occasions; and, in our opinion, very little, if at all, affects the present bill: and it is remarkable, that there is not the least notice taken of the act for granting five thousand pounds for the king's use, which governor Thomas passed without a suspending clause, by extending this very excise act for ten years, which we have now again extended for the same term of years only, and loaded it with a grant of twenty thousand pounds.

'As colonel Thomas gave his assent to that act after the receipt of the additional instruction, which the governor has now sent down with our bill, and as we presume he has no other or later instructions from the crown, though he has since received the royal approbation, we hope he will not think himself more restricted by it, than the gentleman to whom it was immediately directed; who has never suffered in his honour, that we know of, or incurred the king's displeasure for giving his assent to that bill, and at this time holds a government of great importance under the immediate powers of the crown.

'Governor Hamilton, we find, entered into bonds and penalties (among other things) that he shall from time to time, and all times, hereafter, so long as he shall continue lieutenant-governor of the said province, observe, perform, and obey all such directions and instructions, which now are, or shall at any time be given, or sent to him, by his majesty, his heirs, and successors, or from any person or persons, now acting, or that hereafter shall act, by authority from his majesty, his heirs and successors, and pursuant to, and for the putting in execution the several acts of trade and navigation, relating to the plantations, &c. which bond, or bonds of the like tenor, we presume our governor may have entered into before he received the royal approbation: and yet our late governor seems clearly in his reasoning with former assemblies, to have acknowledged he thought himself at liberty to pass acts of the tenor of our present bill for granting money for the king's use; and never offered a suspending clause, notwithstanding his bonds to the crown; but

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whether he might, or might not, be safe in passing a bill of the kind mentioned in his state of the case, could regard himself only, and does, by no means, determine the rights we claim under the royal charter. And we have the pleasure to assure the governor, we have been credibly informed that the board of trade, about a year ago, stated a question to the attorney and solicitor-general, with respect to the validity of this instruction of a suspending clause, over governments claiming particular rights by charter; to which they have not yet given any answer, that we can learn. And we know, that notwithstanding two bills extending the royal instructions over councils and assemblies in America had been attempted in parliament without success, and a third bill was brought in with the same clause, yet it could not obtain a passage there. And we are informed, that a noble friend to liberty and the rights of the British subject, a member of that house, exposed this third attempt so fully, upon the second reading of the bill, that the clauses on this head objected to were dropt without a division in the committee. And until such acts of parliament shall be obtained, which we have good reason to hope will never be imposed upon us, the governor must agree with us, that it is our duty to defend the rights and privileges we enjoy under the royal charter.

'As in the present case, we are not bound by any acts of parliament, and are certainly clear of the act limiting the eastern colonies, both as to the force and the intention of it, we hope the governor, from his known abilities and good will to the prosperity of this province, will immediately discern the difference between this bill and acts of assembly creating bills of credit on common and ordinary occasions. What force royal instructions may have on bills of credit passed on common and ordinary occasions is not immediately before us, and may be considered at a proper time. But we hope the governor, notwithstanding any penal bond he may have entered into, will, on reflection, think himself at liberty, and find it consistent with his safety and honour, to give his assent to this bill, which may, at this time, be of such great service to the British interest in America.

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'But if we should unhappily still differ in opinion, notwithstanding these reasons, and such as have been offered by our former assemblies, we must be obliged, as our last resource, to apply to the crown for redress, or to the lords of trade, or our proprietaries, as the case may require; in which, we doubt not, the governor will favour us with his assistance. And in order to furnish ourselves with every thing necessary for our own vindication, and that this case may appear in its full light, we entreat the governor will be pleased to inform us, whether the royal instruction is the only impediment; or whether he has any farther instructions from our proprietaries, which influence him in refusing his assent to our bill? and, if he has, that he would be pleased to lay those instructions before us for our consideration.'

And the answer to the second was as follows:

'The undoubted proofs his majesty has ever given of his gracious and paternal affection for all his subjects, however distant from his royal presence, and the fresh marks we have now before us of his care and regard for the welfare and security of his subjects in North America, excite in us the warmest returns of duty and gratitude; and we hope we have fully testified, that we have nothing more at heart, in all our deliberations, than to answer the reasonable expectations of the crown from this young but loyal colony. We have cheerfully passed a bill for granting twenty thousand pounds for the king's use, which now lies before the governor for his approbation, and we hope will answer all the purposes recommended to his care by Sir Thomas Robinson's letter of the 26th of October last.'

It was now the governor's turn; and the reader must recollect his former declarations, in order to wonder enough at his introductory paragraph, which was as follows:

'Gentlemen, when your bill for striking twenty thousand pounds, &c. was before me, I duly considered the dangerous circumstances in which the province was involved; and the absolute necessity of speedy measures to remove the French from their encroachments, and this induced me, instead of adding a cause to suspend the force of the act till his majes-

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ty's pleasure could be known, to send it back to you, that you might frame such a one as I was at liberty to give my consent to; and at the same time to signify to you, that I would agree to the striking any sum the present emergency might require, provided funds were established for sinking the same in five years, that being the term prescribed by an act of parliament for regulating paper-money in the eastern governments; and I thought the reason of that act extended here, though the force of it did not; and I hoped that I should be excused, if I so far relaxed the instruction upon the present occasion, as to act agreeable to the rule laid down by parliament for the neighbouring governments, and I am sorry, for the sake of the public, to find by your message, that you have so far misapprehended me, as to conceive that I intended to insist on the suspending clause in this dangerous situation of affairs, which the words of my message do in no wise import, and that upon the whole, you refuse to accede to the reasonable measures I proposed.'—Proceeding then to Ryder's opinion; he would not allow, it regarded only common and ordinary emissions: said, that if governor Thomas was never censured for dispensing with the instruction, it was because the transaction itself had never been made known to his majesty or his ministers; that the fact mentioned by them, relating to the case laid by the lords of trade before the attorney and solicitor-general, was quite unknown to him; that, however, when they should report their opinion, and his majesty should think fit to issue different instructions, he should endeavour to pay the proper obedience; that the debates in parliament, &c. had little connection with the matter then before them; that though the parliament did not agree to give a general sanction to all instructions from his majesty, yet the instruction in question having been the result of addresses from both houses, it could not be doubted but they would support their own act; that he joined with them in opinion, that the only method to have the validity and force of the same finally determined would be by an application to his majesty, and was desirous they should lay the whole affair before his majesty's ministers; that being,

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as he was, in a great measure, a stranger to their constitution, the proprietaries' instructions were quite necessary to him; that those he had received from them, were so perfectly calculated to promote and secure the happiness of the province, and so reasonable in themselves, that they required nothing of him, but what he should have thought it his duty to do without them; that though he did not think it quite decent, and he believed unprecedented, for a governor to be called upon for a sight of his instructions, he would nevertheless communicate them to the house whenever the public service should require it; that, accordingly, he took that opportunity to acquaint them, that he had it in charge from the proprietaries, to recommend to them in the most pressing manner, to provide with all imaginable dispatch for the defence and safety of the province, not only by affording such aids as his majesty from time to time should require, but by establishing a regular militia, providing arms and stores of war, and building proper magazines; all to be done in such a manner as to be least burdensome to the inhabitants, and particularly so, as not to oblige any to bear arms who were or might be conscientiously scrupulous against it; that he required this, in pursuance of the proprietaries' instructions; and that he was the more urgent in it, because the province never had been in more imminent danger than it was at that time: that being to give true and exact accounts of the state of the province to his majesty and his ministers, as well as to the proprietaries, he desired a clear and determinate answer to this point, that he might be able to lay the same before his majesty in such a manner as might make the interposition of parliament unnecessary; that he was really concerned to find, that instead of providing for the articles recommended to them by his majesty, in a manner agreeable to his royal directions [it has been already observed, that no manner had been, or could be, with propriety, directed by the king] they insisted on his passing the bill, in the shape they had sent it up, though before informed he could not do it; that he then again assured them, he would not assent to that or any other bill for emitting paper-money, but upon the terms above-mentioned; he

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also took occasion to add, among other things, that this dispute so long depending, might certainly have received his majesty's determination long ago, had they applied for it. [which, by the way, might have been retorted with equal truth on the proprietaries]—That, were there no other method of raising money for the present service, but that by them proposed and insisted upon, their conduct might have appeared in a more favourable light; but that as they had, or ought to have had in bank, by the laws in being, fourteen or fifteen thousand pounds, together with a revenue of seven thousand pounds a year; as the city and province were in rich and flourishing circumstances, the people numerous, and burdened with none or very trifling taxes, he could not consent to pass the bill proposed; it being (said he) a direct breach of a royal instruction intended to enforce an act of parliament of the sixth of Queen Anne, which [whether act or instructions is doubtful] they knew had been shamefully slighted and disregarded in this and the neighbouring provinces. 'Upon the whole, continued he, you will consider, gentlemen, in what light you will appear to his majesty and a British parliament, who are expending great sums of money for the defence of these colonies, while you, the very province most concerned as being invaded, instead of contributing towards your own defence, are entering into an ill-timed controversy concerning the validity of royal instructions, which might have been determined long ago, and may be delayed to a more convenient time, without any the least injury to the rights of the people. Let me therefore, gentlemen, once more recommend the present unhappy circumstances of this country to your most serious consideration; and entreat you to lay aside (for the present at least) every thing that may admit of any dispute, and enter heartily into such measures as may best answer the public expectations, and assist his majesty in the measures he has concerted, and is carrying into execution, for the preservation of this country.'

The assembly again, as if to give the governor time for second thoughts, sent him up the reply that follows.

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'Before we enter upon the consideration of the other parts of the governor's message of the 24th instant, we must acknowledge ourselves engaged to return him our hearty thanks for informing us, that, "as he was in a great measure a stranger to our constitution, and, to be so highly entrusted by the proprietaries, it seemed quite necessary he should receive instructions from them.—And notwithstanding he may think it not quite decent, or may believe it unprecedented, for a governor to be called upon for a sight of his instructions, yet he will communicate them to the house whenever the public service shall require it."—In return to this candid declaration, and the assurance he is pleased to give us, as well as the ready furnishing us with other parts of those instructions, we beg leave to inform the governor, that we not only apprehend it the undoubted right of a British parliament to address the crown for such information as they judge absolutely necessary to their deliberations; but also, that the proprietary instructions to our former governors, have been repeatedly laid before the assemblies of this province.'

Here certain instances were recited; and the sequel was in these words: 'We, therefore, under these considerations, and for that we are of opinion those proprietary instructions, which the governor is pleased to inform us our proprietaries gave him on their appointing and entrusting him with this government, are the principal, if not the sole, obstructions to the passing our bill for granting twenty thousand pounds for the king's use; and also, for that whatever bills we might prepare for this, or any other purpose, after all the expence to the country, and after all our pains in framing them, would be liable to the same difficulties, unless we could know what those proprietary instructions are. We say, under these considerations, and from the regard our governor is pleased to express for our charter, and our liberties, we earnestly request he would now candidly communicate those instructions to us, as the time when "the public service requires it," in the most particular manner; for, as we are now under an absolute necessity of addressing the

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crown, in support of our civil and religious liberties, in which we have the pleasure of the governor's concurrence, and indeed his desire that we should apply to his majesty on this occasion, we must, in justice to ourselves, and in discharge of the duty we owe to those we represent, make those proprietary instructions, and the force and validity of them, the great end of our humble petition to the crown at this time, unless the governor shall be pleased to convince us to the contrary.'

It was not till the fourth day after this message was presented, that the governor rejoined; during which interval the business of the session seems to have been wholly at a stand; and the language he then used was to the following effect: "That though the house of commons had a right to address the crown for information, and former governors had occasionally laid particular instructions before the assemblies, he did not think assemblies had a right to have them all laid before them upon demand; and was still of opinion, that their application for that purpose was irregular and unprecedented; that it was true he had proprietary instructions as all other governors had had; but that he [who it seems was to be the only judge] could not think it then for his majesty's service, or the interest of the province, to communicate them farther than he had already done; especially as they claimed it as a right, and seemed industriously to seek fresh matter of dispute about them, when the public service required they should be otherwise employed, when they expressed so great a dislike to them, and when they had avowed a purpose of making the force and validity of them, the great end of their petition to the crown, and all this without so much as knowing, except in what related to a militia, &c. what those instructions were; that, having assigned the royal instruction, and the attorney general's opinion upon it, as his reasons for not agreeing to their bill for striking forty thousand pounds, he should be glad to know upon what information they had given it as their opinion, that proprietary instructions had been the principal if not the sole directors of his conduct, or had become so intimately acquainted with

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his private sentiments, as to know, that when he said one thing he meant another; that he had been, and still was, desirous, they should apply to the crown for a determination of the dispute between them; but that as he did not know the civil or religious liberties of the people were invaded by the instruction which gave rise to it, he could have no intention to consent to an application in support of them; that an invasion of the civil and religious liberty of a people, was to be reckoned among the worst of crimes, and was then most aggravated when committed by those who were bound both by their oaths and their duty, to preserve those blessings, and protect the people in the enjoyment of them; that his sacred majesty, who had so long and so happily governed his people upon constitutional principles only, disdained a thought of doing or approving any thing that was otherwise; that a British parliament would never esteem a royal instruction, issued at their own request, and intended to enforce a good and wholesome law, in the least destructive of the civil and religious liberties of any part of his majesty's subjects, whatever they, the representatives of Pennsylvania, might do; that it gave him particular concern, that they should purposely enter into a dispute about that instruction, and choose to publish such sentiments of his majesty's government, at a time like that, when a French army were fortifying themselves in their country; that he earnestly recommended to them to consider, whether such expressions might not have a tendency to alienate the affections of the people from his majesty's person and government, and thereby greatly obstruct the measures he was taking at a vast expence, for the preservation and protection of his subjects on that continent; that he had lately received intelligence that six thousand of the best troops of France were actually arrived at the lower fort on the Ohio, and were there employed in fortifying the country; that this ought to convince them, France had formed some grand design on that continent, and that as they had made their first attack upon Pennsylvania, as the most plentiful and most defenceless part of his majesty's dominions, so in a particular manner, it behoved

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them to exert themselves accordingly; and that he must, therefore, intreat them once more, to wave all disputes till a more favourable season, to consider seriously the dangers their country was exposed to, and not only grant the supplies required, but enable him to raise a considerable body of men, to be employed in conjunction with his majesty's troops, establish a regular militia, provide the necessary stores of war, &c. that the province, for want of discipline, might no longer be left an easy prey to a much weaker body of men, than were then encamped within a few days of this city."

How grossly uncandid and clumsily crafty this rhapsody was, appears at the first glance; and its operation could not but be suitable to its contents.

In short, the assembly, upon the second reading of this and his former message, observing, that the governor called upon them to shew, upon what information they founded their opinion, that he was restrained by proprietary instructions from passing their bill, had recourse to their former proceedings in relation to the proprietaries bearing a proportionable part of the expences incurred on Indian affairs; and the whole having been read and duly considered, upon the issue made the following order, to wit:

'That the representation from the assembly to the proprietaries in 1751, the proprietaries answer thereto laid before the house in May, 1753, and the report of a committee of assembly at that time on the said answer (neither of which have as yet been made public) be now printed with the minutes of this sitting.'—And they were printed accordingly.—So that the whole province had now for the first time the whole case before their eyes, and could not help being convinced by these emphatical words, in clause fourteen, of the proprietary answer, before pointed out, 'especially if we shall be induced, from the state of your trade, to consent to an increase of your paper-currency,' that proprietary, not royal instructions, were indeed the only obstacle to the public service.

But we anticipate—the assembly did not stop here; but unanimously came to such resolutions and grafted such an

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address upon them, as, notwithstanding some few inaccuracies, must ever do as much honour to their understandings as justice to their cause, and the noble principles it was founded upon.

With a reference to the conduct of their predecessors in former assemblies, and the success of their honest endeavours for continuing to them the invaluable blessings they enjoyed under their charters, derived from the royal clemency and goodness, and the justice and benevolence of their founder, they set out; and declared themselves sufficiently animated by their examples to pursue faithfully the same path which they had trod before them.

Having then glanced at the governor's evasion of his promise concerning his proprietary instructions, and the papers which had passed between the proprietaries and the assembly, as the ground of their proceedings, they inserted the unanimous resolutions they had come to, which were as follow, viz.

'That it is the opinion of this house, that the late governor, who was, we presume, as much bound by the additional instruction to Col. Thomas, in 1740, as our present governor is or can be, has clearly admitted in his reasonings with our last assembly, "that it was an absurdity too glaring, to suppose that any government would voluntarily tie up the hands of its subjects from serving it by such means as they are able, in cases of great emergency;" and that Col. Thomas, in passing the act for granting five thousand pounds, for the king's use, in the year 1746, by extending the excise act for ten years, was so far from acting contrary to the instruction he had received from the lords justices in 1740, that the very contrary was evident;" and that the said instruction was not binding upon him from passing a bill in cases of great emergency, of the same tenor with our bill for granting twenty thousand pounds, for the king's use, which our governor has now been pleased to refuse his assent to.

'That it is the opinion of this house, that the governor is undoubtedly bound by proprietary instructions, and that they

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may be, and we believe they really are, or some of them are, such as, independent of the royal instruction, limit or restrain him from passing acts, which, by the royal and provincial charters, we have an undoubted right to offer, and by which he has, or ought to have, full powers to give his assent to, as governor of this province.

'That it is the opinion of this house, that these proprietary instructions, or some one or more of them, is, or are, the principal, if not the sole, obstruction to the passing our bill for granting twenty thousand pounds for the king's use, in this time of imminent danger to the British interest in North America.'—Adding, 'May it please the governor, these resolutions, which are forced from us, we have entered into with the utmost reluctancy; and, in support of them, or any other part of our present conduct, we conceive it our indispensible duty to conduct ourselves precisely within the bounds of sincerity and sober reason, and to avoid every thing that is not in our opinion necessary to our own just vindication.'

Yet more to manifest their ingenuity, they declared, in the next place, their readiness to retract the whole or any part of these resolves, on being convinced by a sight of the governor's proprietary instructions, which it was still in his power to communicate, that they had entertained a wrong opinion of them; but then, till that should be the case, they presumed the governor himself could not but allow, that they had good reason to say, they were under a necessity of making their humble application to the crown in support of their civil and religious liberties; and to think, as it was most natural they should, that, if this could have been done, it would have been done; as also, that the governor, at their request, would have concurred with them in an address to the proprietaries in support of their charter, as it regarded the royal instructions only; and that, on the contrary, as circumstances were, their apprehensions of the proprietary instructions, and the operation of them, in defeating the bill by which they proposed to demonstrate their readiness and cheerfulness in answering all the reasonable expectations of

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the crown, could not but be well grounded: so that it was with extreme concern, they found their governor, who was, or ought to be, set over them for their protection, endeavouring to represent them in a light they detested and abhorred.

'The governor is but in the beginning of his administration,' said they, 'and if, when he received the proprietaries commission, he was, "in a great measure, a stranger to our constitution," we apprehend he still continues a stranger not only to our constitution, but to the inhabitants, if he does not certainly know, that the king has not a more loyal people among all his subjects, than the inhabitants are, and have ever been, since the first settlement of this province; nevertheless they are convinced they ought not to be governed by proprietary instructions in opposition to their charter, which is, in our opinion, the foundation and sanction of our civil and religious liberties; and especially if these instructions must be secreted from them, and by that means the whole country left without any known rule of their conduct. And it surprizes us extremely, that a request of this house, respectfully addressed to the governor, that he would be pleased to lay before us those instructions, or such part of them as might relate to the immediate service of the crown, and to the preservation of this his majesty's colony, in order that we might examine how far they interfered with that allegiance the proprietaries themselves, and all of us, owe to the crown, or with the privileges granted by our charters, should be represented by our governor as an act that "might have a tendency to alienate the affections of the people of this province from his majesty's person and government, and thereby greatly obstruct the measures he is taking, at a vast expence, for the preservation and protection of his subjects upon this continent." That thus contending for the rights granted us by the royal charter, which is the known rule of our conduct, should have a tendency of that kind, under a king, who has been graciously pleased to declare, that nothing in this world can give him so much pleasure as to see his subjects a flourishing and happy people," is so foreign

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from our thoughts, and we trust will be so foreign to every impartial construction, that we may safely leave it without any further remarks of our own. But if it should have a tendency to alienate the affections of the people from being bound by private proprietary instructions, the blame is not with us, who have never been consulted upon them; and if we had been consulted, should have thought ourselves obliged to declare, that we have a great dislike to proprietary instructions, and that so far as they are against the prerogatives of the crown, or an infringement of our charter, they are illegal, and void in themselves."

They then cite Sir William Keith's declarations concerning proprietary instructions before inserted; and at the same time intimate, that he was the first governor who gave bond for the performance of them.—In answer to that part of the proprietary instructions which the governor had so cheerfully laid before them, concerning a militia, &c. they begged leave to say, "that, as it requires money to be levied upon the people for providing arms and stores of war, and building magazines, we are of opinion it may be time enough to deliberate upon it, when we are informed how far he is at liberty by his instructions to pass our bills; and whether himself, or the representatives of the people, are the proper judges of the manner of raising such monies. And when these, our civil and religious rights, are secured, we cannot doubt all will rise up as one man in behalf of our king, our country, and our charters, according to our several stations and abilities."

Coming then to the governor's state of their revenue, they shew, he was as much a stranger to that as to the people and the constitution; and, that instead of having fourteen or fifteen thousand pounds in Bank, they could not have above seven thousand pounds; as also, that, what with the very large sums they had paid for the support of government, and for Indian and other expences, their treasury and loan office were almost quite exhausted.—After which they proceed as follows: 'But admitting the governor's computation in all its extent, if twenty thousand pounds, as he is pleased to in-

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form us, will go but a very little way to raise and maintain such troops as he may think necessary, and without which we had better, in his opinion, do nothing at all, how can the inconsiderable sum we have any power over, answer his demands, though we should ruin the persons now outstanding in our loan office, by the immediate sale of their lands? we are unwilling to make any further remarks on this head, which has, we find, been heretofore insisted upon by our late governor, but carries with it, as we conceive, such appearances of severity, without answering any good purpose, that we think it our indispensible duty to oppose it, as far as in justice we may; and now more especially, when we have offered a bill which would raise a generous sum of money immediately, for the use of the crown, in a manner that would be most easy and most agreeable to us all. Whilst we are upon this article, as the governor must be in a great measure a stranger to our accounts, we take the liberty to remark, that the proprietary patents make, as we are informed by the trustees, near one half of the mortgages now outstanding. These, after paying for their lands out of the money borrowed from the province, are to improve them with the remainder, if any; and as they must have shelter for themselves at least, however mean, and some land cleared for their subsistence, it necessarily puts them in arrears, let them be ever so honest and industrious; whilst the purchases of such their lands are constantly complied with on granting the patents, the bulk of which, we presume, may have been remitted to Great Britain, and makes a very sensible diminution of the silver and gold current among us: so that all ranks of people, however flourishing the governor may be pleased to represent us, complain justly for want of a due medium to carry on our trade; but as this enquiry is not immediately before us, we shall at present leave it, and proceed to inform the governor yet farther, that his computation of our annual income is also too high; for as our excise, *communibus annis*, yields about three thousand pounds (out of which five hundred pounds is yearly applied towards sinking the sum of five thousand pounds, heretofore granted to the king's use)

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the interest payable into the loan office is much about the same sum; and his error in the last article, we presume, might arise, upon a supposal that our whole principal sum of eighty thousand pounds was always yielding an interest; but this has ever been found impracticable, as considerable sums must be continually changing hands, by virtue of our re-emitting acts. Besides which, the province has, out of that principal sum, lent considerable parts of it, without yielding any interest at all; and particularly a debt from the city of Philadelphia, still due upon the first and second thirty thousand pounds' acts, long since expired. And, until that is in our hands, it would be unjust to compute an interest arising from it, or upbraid us with it, as money which ought to have been in our hands by law, whilst some may think we have no power to sue for it by the laws in being.'

Again: concerning the royal instructions, or act of Queen Anne, said to have been shamefully slighted and disregarded in that and the neighbouring provinces, they argued thus: 'the neighbouring provinces must answer for themselves; but, so far as regards this colony, we find, by the votes of the house, that whilst Col. Thomas had the act before him, for emitting and re-emitting eighty thousand pounds, this very act of the sixth of Queen Anne was considered, debated, and so fully explained, that although exchange was then higher than at this time, he (who was undoubtedly under the same oaths and bonds to observe the acts of trade with our present governor) after mature deliberation, gave his assent to that act on the nineteenth of May, 1739; which, after having been recommended by the merchants in England trading to this province, as an act not only reasonable, but likewise necessary for carrying on the commerce of this country,' the king was pleased to confirm it in a full council on the twelfth day of May following. What then the governor does, or can mean, by saying, we know that this province has shamefully slighted a royal instruction, intended to enforce an act of the sixth of Queen Anne, is what we are entirely at a loss to imagine; neither can we conceive any good reason, why our governor should choose to call our bill

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for granting twenty thousand pounds for the king's use, a bill for striking forty thousand pounds, without any further explanation, though that bill had been repeatedly under his consideration. It would be, perhaps, too unkind to suppose, as the bill itself, and the contents of it, would in all probability be unknown to our superiors, further than the grant to the crown, he could have the least intention to misrepresent the purport of it, and for this reason we leave it entirely to his own reflection. The title of that bill is, "an act for striking forty thousand pounds in bills of credit, and for granting twenty thousand pounds thereof to the king's use, and to provide a fund for sinking the same; and for applying the remainder to the exchange of torn and ragged bills now current in this province;" and the governor well knows, it adds no more to our paper-currency than the very twenty thousand pounds granted the king, and even that struck for no other reason than to answer the immediate call of the crown, and to make the grant effectual.'

In answer to the governor's assertion, that the French were already in possession of part of their province, they instance the language constantly used here at home: to wit, that the French had invaded his majesty's territories in Virginia; as also a map then lying before them, founded on authorities supplied by the board of trade and their own proprietaries, wherein every fort built by the French is placed beyond the western boundaries of Pennsylvania; and they again took refuge behind the cautions so minutely expressed and strongly insisted upon, in the first letter from the secretary's office, urging, that while the two crowns were still in a state of amity, it could answer no good purpose to contravene them; and that the king himself, having most graciously interposed, it would be more prudent and becoming to consider him as the most proper judge of the limits of his own dominions.

In their next section, they dispute the probability and almost the possibility of the arrival of such a body as six thousand of the best troops of France at the lower fort upon the Ohio, as asserted by the governor; insinuate, that such ac-

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counts would have deserved more credit, if they had been transmitted from Oswego, near which they must have necessarily passed; and from whence very minute intelligence was received of the passage of those forces which first laid the foundation of the enemy's strength upon the Ohio; and leave the fact to rest upon its own evidence.

After this referring to their dispute with governor Hamilton, and the information they gave him of an instruction from the crown, not to pass any private act, or act of privilege to any individual, without a suspending clause, which had never been inforced by the proprietaries, or observed by any governor, they plead a necessity of informing the governor, though with great reluctance, 'That in the year 1735, governor Gordon passed an act for vesting more effectually certain lands in George M'Call, in direct contradiction to that instruction, without the least mention of a suspending clause.'

And with an elevation of sentiment, style, and manner, seldom seen in public papers, they finish their reply as follows:

'As we have reason to believe the assembly was then acquainted with that instruction, and as the bill particularly related to our honourable proprietaries, our last assembly, notwithstanding the indiscreet call upon them, contented themselves, from motives of prudence and moderation, with barely pointing out this transaction, in hopes our honourable proprietaries would see themselves at least equally concerned with the representatives of the people both in fact and right, and thereby might be induced to join cordially with the people of this province, in vindicating our charter from the continual infraction of such instructions; which, if they must operate in the manner the governor is pleased to contend for, and our proprietary instructions must be binding upon us also, the rights derived to us by the royal charter is a name only, whilst the very essence of it is effectually destroyed: under the sanction of which charter, a sober, industrious people, without any charge to the crown or the proprietary, first settled this wilderness, and by their fruga-

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lity, and the equity of their laws, laid the foundation of a flourishing colony, which already, within the ordinary life of a man, has made a considerable addition to the dominions of the crown, by an increase of dutiful and loyal subjects, and bears no mean rank in contributing to the wealth and trade of our mother country.

'Whether the above act for granting five thousand pounds for the king's use, or the act for vesting lands in George M'Call, were ever sent home for the royal approbation, very little concerns us, as we presume the transmitting our acts is the immediate duty of our proprietaries, or their lieutenants, in pursuance of the royal charter, which we look upon as the anterior solemn royal instruction, for the rule of their conduct, as well as of our own.

'Upon the whole, from what we have said, we presume it evidently appears, that proprietary instructions and restrictions upon their governors, as they have occasionally been made a part of the public records at different times, have been judged and resolved by our governor, council, and the representatives of the people, either,

'1. Inconsistent with the legal prerogative of the crown settled by act of parliament.

'2. Or a positive breach of the charter of privileges to the people.

'3. Or absurd in their conclusions, and therefore impracticable.

'4. Or void in themselves.—Therefore,

'Whenever the governor shall be pleased to lay his proprietary instructions before us for our examination, and if then they should appear to be of the same kind as heretofore, his good judgment should lead him to conclude, that such "considerations in life" as our allegiance to the crown, or the immediate safety of the colony, &c. are sufficient inducements for him to disobey them, notwithstanding any penal bonds to the contrary, we shall cheerfully continue to grant such further sums of money for the king's use, as the circumstances of the country may bear, and in a manner we judge least burthensome to the inhabitants of this province.'

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Lastly, that they might be able to set all imputation and misrepresentation whatsoever at defiance, they applied themselves to find out some expedient, by which the service recommended to them by the crown might be promoted as far as in them lay, even without the concurrence of the governor. In order to which, having thoroughly weighed the contents of Sir Thomas Robinson's last letter, and the state of the provincial treasury, in which there was scarce five hundred pounds remaining, they unanimously resolved to raise five thousand pounds on the credit of the province, for the accommodation of the king's troops; and impowered certain members of their own to negociate the loan, and allow such interest as should be found necessary.

The controversy, however, which this new governor had been so ingenious as to work up to such a pitch in so short a time, was, by the continuance of the same ingenuity, to be still continued as warm as ever.

Accordingly, down came another message from him, in which he complains to the assembly, of the very great obscurity, unnecessary repetitions, and unmeaning paragraphs contained in their last performance; and through the whole, manifests that spirit of perverseness, which is but too prevalent with most men on the like occasions. Of the inaccuracies before acknowledged in that performance (and which are perhaps unavoidable in pieces drawn up from a variety of suggestions, and subject to a variety of alterations and additions), he takes all the advantage he can; and does indeed foul the water, though he cannot divert the current.

It would be endless to wade through all the minutenesses of so tedious a contest; and odds if the reader did not leave the writer in the midst of it.

To be as concise as possible, therefore: his paper is as insidious as that of the assembly was candid and open. He would not allow that he had promised them a sight of his instructions, with regard to their bill for granting twenty thousand pounds to the king; which was so far true, because he could have none regarding that particular measure; he would not allow that he had represented their application for

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those instructions, as having a tendency to alienate the affections of the people from the king; which was also true, because such his representation had been confined to the expressions they had made use of concerning the invasion of their civil and religious liberties; the last of which is indeed no otherwise to be accounted for, than by the demand made upon them, to establish a militia, and thereby oblige those to carry arms, who made it a point of conscience to disavow resistance by force; those expressions, he would needs have it, had the tendency he ascribed to them; because, 'he very well knew how fond the people were of their currency, and how averse to any restraint upon it.' He endeavoured to embroil them with the crown, for having called the instruction in question, an infraction of the royal charter. He reproached them both with ingratitude and with injustice, for being pleased to be angry with their proprietaries. In vindicating the affections of those gentlemen to the province, he derived his argument from their interest in it; and he is peremptory, that, instead of entertaining designs to invade the just rights and privileges of the inhabitants, there was nothing they so much detested and abhorred: he adhered to the resolution he had taken, nevertheless, not to lay his instructions before them at that time; being sensible they were no way necessary, and that the assembly, having already declared them destructive to their liberties, they were not in a proper temper for the consideration of them; to shew he was not restrained by proprietary instructions from passing bills for the defence of the country, he declares himself ready to pass a law for establishing a militia, &c. and for emitting any sum in paper-money, on proprietary terms; that is to say, on such funds as might sink the same in five years. He perseveres in maintaining, that the act of the sixth of Queen Anne had been shamefully slighted even in their province; because pieces of eight were then, and had been for many years past, current at seven shillings and six pence; whereas, according to that act, they should pass for six shillings only: as if money, like all other commodities, would not find and fix its own value, in

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spite of all the precautions and provisions the wit of man could invent. He also maintained, that, on a re-examination of the provincial accounts, their revenue was seven thousand three hundred and eighty-one pounds per annum, clear of the five hundred pounds per annum for sinking the five thousand pounds, formerly given for the king's use; and, that the sums due, and which, by the laws in being, should have been paid in the September preceding, amounted at least to fourteen thousand pounds. He averred they could not but be sensible that the twenty thousand pounds currency they proposed to give, and called a generous sum, was very insufficient to answer the exigence, and that it was not two pence in the pound, upon the just and real value of the estates of the province; and, in short, he said whatsoever else occurred to him, which could favour his purpose of figuring here at home: as if he was in all respects right, and the assembly in all respects wrong.

Argumentatively then, if not historically, we have now the merits of the case before us, and may safely pronounce, that, if instructions may or can be construed into laws, instructions are then of more value than proclamations, which do not pretend to any such authority.—That, though grants from the crown are in the first instance matter of grace, the subject may claim the benefit of them as matter of right.—That when the prerogative has once laid any restraint on itself, nothing short of a positive act of forfeiture, or act of parliament, can authorise any species of resumption.—That if a subsequent instruction may cancel or obviate an original grant, charters, under all the sanctions the prerogative can give them, are no better than quicksands.—That in the charter given to William Penn, Esq. and solemnly accepted as the basis of government, by his followers, there is no reserve on the behalf of the crown, to tie up the province from making the same use of its credit, which is the privilege of every private subject.—That, notwithstanding all the pretended sacro-sanctitude of an instruction, probationary at first, neither renewed or referred to, directly or indirectly, by his majesty or his ministers afterwards, and virtually discharged by

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a subsequent act of parliament, which expressly restrained some colonies, and consequently left the rest in possession of their ancient liberty, the governor was notoriously ready to dispense with it on proprietary terms.—That the difference between five and ten years for sinking the bills, was a point in which the national interest had no concern.—That if the eastern colonies, which were those restrained by the said act, might, nevertheless, in case of exigence, make new issues of paper-money, those unrestrained might surely do the same in the like case, on such terms, and after a mode, as appeared most reasonable to themselves.—That, according to all the representations of the governor to the assembly, if true, the fate of the province, if not of the public, depended on their giving a supply.—That, consequently, no exigency could be more pressing than the present, nor emission of paper-money better warranted.—And that he could, nevertheless, leave the province exposed to all the calamities which that exigence could possibly bring upon it, or upon the service in general, rather than give up one proprietary item: whereas the difficulty imposed upon the people manifestly was, either to be a prey to their invaders, or give up every privilege that made their country worth defending: which shews, in the fullest, clearest and most unanswerable manner, that all proprietary interposition between the sovereign and subject, is alike injurious to both; and that the solecism of an *imperium in imperia*, could hardly be more emphatically illustrated.

To the crown, under this difficulty, the assembly now thought it high time to make their appeal; in humble confidence, that a fair and modest state of their case, would recommend them to the royal protection, and skreen them from the malignity of their adversaries.

That the governor, however, might not, in the mean time, remain ignorant of their sentiments, they made another application to him by message; in which they apprized him of what they had done, and of their joining issue with him in submitting their cause to his majesty's decision; as also, of their inclination to adjourn till May, for the sake of their own private affairs, to relieve the province from the expence

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they sat at, and suspend the uneasiness which a contest, like to be endless, and in which they were treated with so little decency, had given to them. And having thus, as they observed, reduced what immediately concerned them, within a narrow compass, they first declare, it was hard for them to conjecture, how the governor came by his knowledge of the people's fondness of their currency, and aversion to restraints on that head; seeing they had not petitioned for any increase of it, nor the assembly offered any such bill, during his administration, except that which comprehended the sum given for the king's use, and that only as the best method they could devise for making the grant effectual. On the behalf of the late assemblies, they next insinuate, that when they did offer such bills they were but for a very moderate sum, founded on minute calculations of their trade, and guarded against the danger of depreciation, by such securities as long experience had shewn to be effectual. Proceeding then to the governor's re-assertion concerning the shameful slights put on the money-act of Queen Anne, they appeal to the testimony of the board of trade in favour of their own as a reasonable act, and the royal sanction given thereto, by which it is declared, that their provincial bills of credit are lawful money of America, according to the said act of Queen Anne; as also to the course of exchange ever since, as a full confutation of his charge. They further plead a necessity to differ from him in his state of the public money; assure him the computations he relied upon were made without skill, or a sufficient knowledge of their laws; adhere to the justice and rectitude of their own state; maintain, that by the laws in being, seven thousand pounds was the most they had power over, which sum, since their last settlement, had been greatly reduced by the very heavy charges of government; and, having recapitulated what the governor had been pleased to say concerning the insufficience of their grant, &c. conclude in the following spirited manner:

'What the governor may think sufficient, is as much a mystery to us, as he may apprehend his proprietary instructions are; but, we presume, it may be sufficient for all the

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purposes in Sir Thomas Robinson's last letter, and as much or more, than we think, can be reasonably expected from us. How the governor became so suddenly acquainted with the real value of our estates, is not easy to conceive; but we know from long experience, having many of us received our birth in this province, that the inhabitants are not generally wealthy or rich, though we believe them to be, in the main, frugal and industrious, yet it is evident that their lands are greatly encumbered with their debts to the public. From these considerations, we are obliged to think the governor's estimation of our wealth is undoubtedly too high, unless he includes the value of the proprietary lands; for, by the report of a committee of assembly in August, 1752, it appears, that the taxables of this province did not exceed twenty-two thousand; and the grant we have offered of twenty thousand pounds, from the best calculations we can make, doth at least amount to five times the sum that hath ever been raised by a two-penny tax through this province. As we think the governor cannot be a competent judge of the real value of our estates, in this little time of his administration, and as we have now submitted our cause to higher determination, we conceive ourselves less concerned in his computations of our estates, whatever they may be.

'The governor is pleased to inform us, "That the proprietaries are too nearly interested in the prosperity of this country, to do any thing to its prejudice, and he should have imagined that the people could not now stand in need of any proofs of the proprietary affection, or suspect them of having any designs to invade their just rights and privileges, which, he is confident, they detest and abhor." We cannot suppose the governor would mean they detest and abhor our just rights and privileges; and yet we are convinced the clause in their commission to him, their lieutenant, whereby they impower him to act as fully and amply, to all intents, constructions, and purposes, as they themselves might or could do, were they personally present, "You, (our governor) following and observing such orders, instructions, and directions, as you now have, or hereafter, from time to time, shall receive from us,

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or our heirs," is not only repugnant to our just rights and privileges, but impracticable, against common sense, against law, and void in itself; and yet if the governor should think his hands are so tied up by these instructions, that he is not at liberty to act for the public good, we must conclude they are of dangerous consequence at all times, and particularly in this time of imminent danger, not only to ourselves, but to the British interest in North America.'

To this message the governor returned a short answer in these words:

'*Gentlemen*,

'I am very much surprized at your proposal to adjourn till May, as you have made no provision for the defence of the province, or granted the supplies expected by the crown, and recommended by the secretary of state's letters: I must therefore object to the proposed adjournment, while things remain in this situation, and hope you will, in consideration of the danger to which your country stands exposed, continue sitting till you have granted the supplies to the crown, and effectually provided for the defence of the people you represent; but if you are determined to rise at this time without doing any thing, remember it is your own act, and all the fatal consequences that may attend your leaving the province in this defenceless state, must lie at your doors.'

The house in return unanimously resolved, 'That the governor has been respectfully and repeatedly solicited by this house, to pass a bill presented to him, for granting twenty thousand pounds for the king's use, which, in our opinion, would have answered the expectations of the crown from this province, as signified by the secretary of state's letters, had the governor been pleased to have given it his assent; therefore, whatever ill consequences ensue, from supplies not having been granted at this critical juncture, must lie at his door.'

The governor, by his secretary, demanded a copy of their minutes. The house ordered the minutes both of this and their last sessions to be printed, and that a copy finished should be delivered to the governor: and, having then re-

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solved to adhere to their adjournment, adjourned accordingly.

In the beginning of March, however, the governor thought fit to re-assemble them, and assigned the arrival of general Braddock, the necessity of considering what he had to propose without delay, and making the provisions expected by his majesty for the service in time, as his reasons for so doing. In the same message he also acquainted them, "That he had issued a commission to a number of men acquainted with the country, to form a plan of opening roads from the inhabited parts of the province westward towards the Ohio, at the requisition of Sir John St. Clair, quarter-master-general, to facilitate the march of the troops, conveyance of provisions, &c. and also to prepare an estimate of the expence, which he called upon them to provide for; also, to be enabled to take such a part in the measures proposed by the eastern governments for the maintenance of his majesty's just rights, &c. as became the honour and interest of a province circumstanced like theirs. Having then premised, that it was said, the large supply of provisions furnished to the French from these colonies, not Pennsylvania in particular, which he acknowledged had little concern in that unnatural trade, had enabled the enemy to support their forces in America, he informed them, he had given the officers of the customs preventive orders in relation thereto; and added, that he made no doubt of their joining with him in a law to make those orders more effectual. The desire of the eastern governments, that Pennsylvania would join with them in their operations to frustrate the schemes of the French, made his next topic; and he grafted a hope upon it, that they would enable him to take such part as became the honour and interest of a province, circumstanced like theirs. The establishment of a post between Philadelphia and a place called Winchester, at the desire of general Braddock, was what he recommended next; and that again was followed by another desire of the same general's, that the quotas for the common fund of the several provinces, recommended by the secretary of state, might be lodged in the hands of a

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treasurer, subject to his demands, in order to expedite business; and the general being perfectly disinterested, as also willing to account for his disbursements, he hoped they would put it in his power to return him a satisfactory answer; and for a conclusion, he recommended vigour, unanimity, and dispatch, that the happy opportunity put into the hands of the colonies by his majesty's paternal care, &c. might not be lost."

That there was no retrospect in this message was some recommendation of it; but the merit of this forbearance lasted no longer than till the afternoon of the very same day, when the house was artfully perplexed with two messages more, which could not but revive the memory of past dissentions, and consequently the ill humour they had produced. The first contained a reprimand for their having printed Sir T. Robinson's letters, communicated to them without his, the governor's, privilege or consent, and a caution against the publication of them; and an intimation, that though he had letters and other papers relating to his majesty's service to communicate to them, he did not think it safe to do it, without proper assurances that the contents should remain a secret. The second being nearly as short, and rather more extraordinary, shall be given in his own words:

'*Gentlemen*,

'On the tenth of January last, I demanded, by the secretary, a copy of the minutes of your proceedings, which you promised to send me; but not receiving them, I did, on the twenty-ninth of the same month, by letter to the speaker, again demand them, and have frequently, by the secretary, reiterated my request, but could not obtain a sight of them till the twelfth instant, above two months after your rising, and then only a part of them were sent me in print, and I have not yet seen the whole of them.

'The keeping your proceedings thus a secret from me, I take to be a very unconstitutional and extraordinary measure, liable to a construction that I do not choose at present to put upon it, but only to acquaint you that I expect you will order your clerk to attend me every night with the mi-

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nutes of the day, that I may know what is done and doing in your house, and be able in time to lay the same before his majesty and his ministers, who expect to be regularly informed of the measures taking by the legislatures of the colonies.'

Both were answered the next day in substance thus, "That they were humbly of opinion, such letters as those in question, containing the commands of the crown, ought generally to be inserted in their minutes as being the foundation of their proceedings, and what might be necessary for their justification; that those letters were communicated without the least caution to keep the contents a secret; that the latter, which was the most material of the two, was a circular letter which had been sent in effect to all the provinces and colonies in North America, and of which the substance, as they were informed, had been printed in the speeches of several governors to their assemblies; that the design of sending two regiments from England, and raising two more in America, was no secret, having been avowed even in the London Gazette; that the governor himself had given very full and particular abstracts of those letters, in his messages which had been printed in their own gazettes long before the house adjourned, and passed without objection; that they were, therefore, surprized at the exceptions started now to the insertion of them in their minutes, and, no single inconvenience to result from it having been pointed out, were not inclined to expunge them; that knowing not what assurances of secresy would be satisfactory, they could only say, that whenever it should appear to the house to be necessary for the king's service, or the public good, to keep any matters laid before them secret, proper measures, they doubted not, would be taken for that purpose." Proceeding then to what related to the governor's demand of a copy of their minutes, they adjoined, "That they had ordered the said minutes to be printed with all convenient speed, and, when finished, that a copy should be delivered as required; that as soon as they could be copied and revised by a committee of the house, they were put to press; and that the governor had been sup-

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plied with a copy of the greatest part of them even before they were finished; that it had been the constant practice of the house to have their minutes so revised, and to postpone the said revisal till after the rising of the house; and that till this was done, no copies had ever been given out, unless of special votes on special occasions; that the principal matters contained in these minutes were generally to be found in the governor's speeches or messages, and the answers of the house; and that these, together with such votes as were most material, were, for the most part, immediately printed in the newspapers, that the rest was chiefly matter of form; that, therefore, as it would be inconvenient to the house to make up and perfect their votes daily, so as to send a copy to the governor, as they saw no public service concerned in it, nor knew of any right in the governor so peremptorily to demand it, they were not inclined to alter their ancient custom; that his charge of taking extraordinary or unconstitutional measures to keep their proceedings a secret from him, was void of any real foundation; that as to the construction put by the governor on their conduct, they neither knew nor could guess what it was; that whatever it was, they had rather it had been spoken plainly, than insinuated, because they might then have known how to justify themselves; that, however, being conscious of the firmest loyalty to the crown, and the most upright intentions to the people they represented, they were not very apprehensive of any great prejudice from such insinuations; that reflecting on the weight and importancé of the matters laid before them in the morning message, which, moreover, so earnestly pressed them to unanimity and dispatch, they could not but be surprized at receiving messages of so different a kind in the afternoon, and which could only tend to produce division and delay, &c.—And that, therefore, they humbly intreated the governor to suspend those his irritating accusations and novel demands till a season of more leisure, and that he would permit them to proceed, without any farther interruption, on the business for which he had been pleased to call them together."

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Not to be diverted, however, from the pursuit he was in by this caution, he sent a letter to the printers for the assembly (one of whom was a member) forbidding them to publish the secretary of state's letters; and ordered his secretary to inspect the journals of the house from the 17th to the 20th of March then current, both inclusive, and to take a copy thereof. Upon the former of which measures they resolved, that the said letters had been properly inserted; that the house had by sufficient reasons shewn, that the expunging those letters was both improper and unnecessary; that the right of directing what should, or should not be inserted in the minutes of the house, was solely in the house; and that the governor had not, nor could have, any right to interfere therein: and they ordered the printer to proceed with the publication of their minutes as they then stood; and with regard to the latter, they informed the governor by message, "that when their minutes should be revised and printed after the end of the session according to long continued custom, a fair copy should be presented to the governor; but that till then they hoped the governor would excuse them if they did not permit any body to inspect them, or any copy of them to be taken."

Here this little ruffle ended: and while it was yet subsisting, the governor informed the house, as a secret which he recommended to them to keep so, "that governor Shirley, with the concurrence of his council and assembly, having, among other measures, formed a design to build a fort near Crown Point, within the limits of his majesty's territories, had sent commissioners to this and other governments, to solicit their contributions to the same undertaking; that the said governor had written to him fully upon this head, that he should communicate his letter to them, that they might see what was expected from the province; that Mr. Quincy, his commissioner, was actually arrived, and had made his application to him; and that he heartily recommended it to them to grant the necessary supplies for that important service."

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Upon the heels of this, by another message he also informed them of, and congratulated them upon, the arrival of the transports, with the forces and artillery destined for the American service in Virginia; after which he proceeded, as in the last session, to say, "that his majesty's care and affection for his subjects in America having induced him to so large and seasonable an assistance, for the recovery of those possessions which the French, contrary to the faith of treaties, had seized, they would be greatly wanting to themselves if they neglected the opportunity to frustrate the attempts of that perfidious people; that to render his majesty's measures effectual, it was expected, that the colonies should raise an additional number of forces, and should furnish provisions and all necessaries to those employed for their protection; as they would see by a letter from the earl of Halifax, and another from general Braddock, which were to be laid before them; that this being so reasonable in itself, he could not doubt its being readily complied with by all the provinces, in proportion to their abilities; and he hoped, that as Pennsylvania was the most interested in the event, they would exert themselves as became the representatives of a province acttually invaded, and having their all depending on the success of the present enterprize; that he earnestly besought them to consider what might be the consequence of their refusing to grant the necessary supplies, as they might be assured his majesty would not condescend to recommend to them in vain the making provision for their own defence, but would doubtless, upon their refusal, be enabled by his parliament to oblige those who reaped the immediate benefit of such a chargeable protection to contribute their proportion of it; and that if by a disappointment in the articles expected to be supplied by them, the great expence the nation had been put to for the security of these invaluable branches of the British empire, should be rendered unavailable, they could not but think they would justly draw upon themselves the resentment of his majesty, and a British parliament."

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How unusual soever such language was on such occasions, and how inconsistent soever with the claims and rights of freemen, the assembly not only stifled their resentments of it, but proceeded the very same day to do all that was required of them with all the alacrity imaginable.

Twenty-five thousand pounds was the sum they granted to the king's use: five thousand pounds of it was appropriated for the sum borrowed for the service at the last sitting; ten thousand pounds for the purchase of provisions, at the request of the government of Massachusett's-bay, for victualling their forces; five thousand pounds, to answer the occasional draughts of general Braddock: and the remaining five thousand for the maintenance of such Indians as had taken refuge in the province, and other contingent expences in their votes expressed: and the whole was to be raised by an emission of paper bills to the same amount, and to be sunk by an extension of the excise for ten years.

If the other part of the former bill concerning torn and ragged bills, was mentioned, or at all insisted upon, it could not be carried; the majority on this occasion resolving, that no provincial consideration of that kind should furnish the least pretence for any obstruction to the general service.

Upon the 28th of March, 1755, this bill was left with the governor, and on the first of the next month he sent them the following message, viz.

'*Gentlemen*,

'Your bill for striking twenty-five thousand pounds, being contrary to his majesty's instructions relating to paper-money, and of the same nature with the bill I refused my assent to the last sitting of the assembly, I cannot pass it into a law, without a breach of duty to the crown; and I am concerned you should offer such a bill to me, when you had agreed to submit the dispute between us, upon one of the like kind, to his majesty.

'As this is a time of imminent danger, and the forces raised and destined for the service of the colonies must wait the supplies from this province, I again intreat you to fall upon some other method of raising money, that we may not

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lose this happy opportunity of recovering his majesty's dominions, now invaded by the subjects of the French king, and preventing their unjust encroachments for the future.

'But if these repeated recommendations of so reasonable a supply, shall fail of the desired effect, and any ill consequences should attend it, his majesty and his ministers, a British parliament, your own constituents, and the neighbouring governments will be at no loss on whom to lay the blame.'

This message was also accompanied with another, dated March 31, in which the governor having referred to an account to be given them by his secretary, of several matters committed to the care of one Scarroyady, an Indian chief, by the Ohio Indians, made use of it as an additional goad to the assembly, in the manner following:

'*Gentlemen*,

'So much depends on the disposition and measures of the Indians at this time, that I must earnestly recommend it to you to make provision for the ensuing treaty, as well as to enable me to take proper notice of this chief, who is so hearty in our interest, and of the young men he has brought along with him, in order to be employed in some services, which, he says, are of importance to the general cause.

'It will readily occur to you, that the several western Indians, who wish well to the English interest, wait with impatience for the return of this chief, and will form their measures according to the report which he shall make to them of our treatment of them: for which reason, it will be of the last consequence, that this chief, and these young men, go from us well clothed, and perfectly well pleased.'

On the same day also, Mr. Quincy, commissioner to the province from the government of Massachusetts-bay, presented a memorial to the assembly, which containing an unquestionable testimonial in their favour, deserves to be inserted intire as follows, viz.

'*Gentlemen*,

'I am extremely sorry to find, that notwithstanding all the motives and arguments I was able to offer his honour

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the lieutenant-governor, he did not see his way clear to give his consent to the money-bill you have laid before him.

'The cheerfulness with which you therein granted ten thousand pounds, for victualling the forces intended to march from New England to secure his majesty's territories, leaves me no room to doubt your zeal for his majesty's service, or your hearty concurrence with the government I have the honour to represent, in the measures now proposed for our common safety; and therefore, though you are unhappily disappointed in the manner of your grant, I flatter myself you will not fail to find some other means of rendering it effectual.

'The advantages which a speedy and vigorous execution of those measures promises to all the colonies, and the mischiefs which a neglect of them will entail upon us and our posterity, are clearly pointed out, and fully illustrated in the papers which have been the subject of your late deliberations.

'In rendering this important service to the crown, to the British nation, and to their fellow-subjects in the other governments, New England offers to spend her treasure as freely as her blood, and, were her abilities equal to her zeal, would as cheerfully bear the whole expence, as she undertakes the whole hazard of the enterprize. But the vast yearly charge she is subjected to, by her vicinity to the French, and the necessity of defending so extensive a frontier from the incursions of those perfidious people, and their Indians, both in time of peace and war, has so exhausted her finances, and burdened her with such a load of debt, that, without the assistance of the neighbouring more wealthy colonies, she must drop the design, however promising and glorious, as utterly impracticable.

'Happy will your province be, gentlemen, if you can still keep those dangerous people at a distance from your borders, by which you will be free from the many mischiefs we have always suffered by their neighbourhood.

'The opportunity is now offered you, and, if embraced, will, by the blessing of God, secure your future peace and

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prosperity. But whatever you do, should be determined instantly, for the season flies, and a delay may be as pernicious as a refusal.

'I have just received advice, that Connecticut has voted fifteen hundred men, and that even the little government of Rhode Island has granted four hundred, the expence of which will be more than is asked of you. New York seems heartily disposed to do her part; and there is reason to think that your good example may have an advantageous influence on your neighbours of New Jersey.

'I need say no more to urge you to a speedy and effectual resolution, but conclude, with the utmost respect, gentlemen,

'Yours, &c.'

The rest of the day was spent in debates, as it was natural it should; but on the morrow they resolved to raise fifteen thousand pounds on the credit of the province, in the manner they had done before; that is to say, five thousand pounds to repay the sum so before borrowed for victualling the king's troops, and ten thousand pounds to answer the request of the Massachusetts government, so earnestly enforced by Mr. Quincy.

Thus, one would think, they had done all that could be reasonably required of men: they had dropt the particular concern of the province; they had overlooked whatever was offensive in the governor's messages and behaviour to them, they had forborne all altercation thereon; and Mr. Quincy, on behalf of the government he represented, presented them such a paper of acknowlegment, as abundantly verifies all that is here said of them, to wit:

'*Sir*,

'The sum which this honourable assembly has granted to his majesty's use, and appropriated for victualling the troops intended to be marched for securing his majesty's territories, is an instance of your concern and zeal for the public safety, which I doubt not will be highly acceptable to his majesty. And as it was made in consequence of my application to you, I beg leave to return you my grateful sense and acknowlegment; and to assure you, in the name and behalf

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of the government I have the honour to represent, that it will be duly applied to the purposes for which it was granted.'

The governor, however, dissatisfied still, because disappointed and defeated, first evaded the assembly's demand of the restitution of their bill according to custom, and then refused it, saying, "That it was a bill of so extraordinary a nature, that he thought it his duty to lay it before his majesty, and should keep it for that purpose."

He also informed them by message of intelligence he had received, that the French had fitted out fifteen sail of the line, with which they were sending out six thousand land forces, and that the king's ministers were not in the secret of their destination; yet as they were bound for America, and could not be ignorant that Pennsylvania was both a plentiful and defenceless country, he thought it his duty to call upon them to enable him to put it into a posture of defence, by establishing a regular militia, and providing the necessary stores of war.

This message was dated April 3d, and yet on the 8th following he advised them to make a short adjournment, because he was to receive the governors Shirley and De Lancey, that evening, and was to accompany them to Annapolis, there to confer with general Braddock, and the governors Sharpe of Maryland, and Dinwiddie of Virginia; after which, it was probable, he should have several matters to lay before the assembly; but, as a parting stroke, he called upon them to make some provision for Scarroyady, before mentioned, and his young men, which they did—not without some wholesome hints, that they had been long enough already a charge to the province; that there were proper lands where, and it was a proper season when, they might both hunt, and plant their corn, by which they might provide for themselves; and that as to the Indian treaty they had been required to make provision for, the governor could not expect they could come to any immediate resolution, till they had received the necessary information concerning it.

It was in this manner they parted. The adjournment they made was only to the 12th of May, and yet the governor

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both complained of that term as too long, and said he should call them sooner if there was occasion. When they met, they gave the governor notice as usual, and that they were ready to receive whatever he had to lay before them. The governor's answer was, that he had nothing to lay before them at present but the German bill; a bill, that is to say, recommended by the governor himself, from the notorious necessity of it, for preventing the importation of German or other passengers or servants in too great numbers in one vessel, and for preventing the spreading of contagious distempers, imported by or together with them, &c. This had been prepared by the house at their last sitting, and sent up to the governor; had been returned with amendments by him; some of these amendments had been adopted: and then the bill had been again sent up, with a desire from the house, that the governor would be pleased to pass the same as it then stood. This he had not been pleased to do, but on the contrary had referred it to the consideration of his council, by whose advice he had been determined to adhere to his amendments; under which declaration it was now again sent down to the house; who having appointed a committee to draw up a message to the governor, representing the inconveniencies to be apprehended from the said amendments, and agreed to that message, on the report of the same, came to a resolution of adjourning on the morrow to the first of September.

To say this message was of the most pathetic, rational, and interesting kind, is to say the least that can be said of it: it explained the evil to be remedied, and the consequences to be apprehended from a continuance of it, in the most affecting terms; it demonstrated, that the amendments insisted upon by the governor were calculated to deprive it of all its vigour and utility; that in effect the province was to be as much exposed to the same nuisances and dangers as ever; and what gave the most offence of all, by the following paragraph the inhabitants were led to the very source of so crying a grievance.

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'By our charters, and the laws of this province, the whole legislative power is vested in the governor and the representatives of the people; and as we know of no other negative upon our bills but what the governor himself has, we could wish he had been pleased to have exercised his own judgment upon this our bill, without referring the consideration of it to a committee of his council, most of them such, as we are informed, who are, or have lately been, concerned in the importations, the abuses of which this bill was designed to regulate and redress."

Now, which ever party was in the right, can it be said, that the king, or the supply for his service, or any one of the points in the preceding session agitated, had any concern in the rise, progress, or issue of this controversy? has it not been already observed, to the honour of the assembly, how cautiously and prudently they had avoided whatever could tend to widen the breach on any of these heads? is it not fresh before us, that, even for want of provocation, the governor himself was forced both to part with them, and meet them again in peace. And yet having declared as we have seen, that he had nothing to communicate to them, consequently nothing to ask of them, other than what related to this German bill; did he take the hint from hence to treat them by message in the following extraordinary manner, viz.

'*Gentlemen*,

'When I summoned you together on the 17th of March last, I was in hopes you would bring with you inclinations to promote the public service, by granting the supplies expected by the crown, and by putting this province into a posture of defence; but I am sorry to find, that neither the danger to which this country stands exposed, nor his majesty's repeated and affectionate calls, have had any weight with you.

'The bill you sent me for striking twenty-five thousand pounds, was of a more extraordinary nature than that I refused my assent to in the winter sessions, as it gave general Braddock a power over no more than five thousand pounds, and subjected the remaining twenty thousand, and all the sur-

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plus of the excise, for eleven years to come, to the disposition of some of the members of your house, and to the assembly for the time being.

'The offering money in a way, and upon terms that you very well knew I could not, consistent with my duty to the crown, consent to, is, in my opinion, trifling with the king's commands, and amounts to a refusal to give at all; and I am satisfied will be seen in this light by my superiors; who, by your bill above-mentioned, which I shall lay before them, and by the whole of your conduct since you have been made acquainted with the designs of the French, will be convinced, that your resolutions are, and have been, to take advantage of your country's danger, to aggrandize and render permanent your own power and authority, and to destroy that of the crown. That it is for this purpose, and to promote your scheme of future independency, you are grasping at the disposition of all public money, and at the power of filling all the offices of government, especially those of the revenue; and when his majesty and the nation are at the expence of sending troops for the protection of these colonies, you refuse to furnish them with provisions and necessary carriages, though your country is full of both, unless you can, at the same time, encroach upon the rights of the crown, and increase your own power, already too great for a branch of a subordinate dependant government, so remote from the principal seat of power.

'You have, gentlemen, by a vote of your own house, without the consent of the government, empowered a committee of your members to borrow money upon the credit of the assembly, and to dispose of the same to certain uses in that vote mentioned. You have also, by votes and resolves of your own house, created bills or notes of credit, made payable to the bearers thereof, to the amount of fifteen thousand pounds, which you have issued in lieu of money, and they are now circulating in this province, without the approbation of the government. You have denied me access to your journals, and refused me copies of your minutes. And you have printed and published the secretary of state's letters to

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me signifying his majesty's commands, not only without my consent, but contrary to an order I had issued to the printers, expressly forbidding the publication of those letters.

'Whether you have a right to the exercise of such extraordinary powers, his majesty and his ministers will judge, before whom it is my duty to lay your proceedings as soon as I can come at them, and to whom they will appear the more dangerous, as neither they nor you can know but a future assembly may use those powers against the government by which they are protected.

'While I had any the most distant hopes of your coming into measures that might promote the public service at this critical conjuncture, I suffered some parts of your conduct to remain unobserved upon; but as I am now convinced, from the whole tenor of your behavior, and from your message of yesterday, notifying your intentions to adjourn till September next, without granting the necessary supplies, that you have no design to contribute any thing towards the defence of this country, I thought it right to be no longer silent upon those heads.

'Gentlemen, when the bill to prevent the importation of the Germans, &c. was under my consideration, I took such advice upon it, and made such amendments to it, as I thought would best answer the public purposes, and put that trade upon such a footing as to prevent the many abuses that had been practised in it, and at the same time secure this city and province against the coming in and spreading of infectious distempers. How far the bill, as proposed by you, or amended by me, would, or would not, have answered those ends, was a matter proper to be considered at a conference, which you might have desired if you had thought proper, as it is the only means of bringing a bill to perfection, when the branches of the legislature differ in opinion concerning any amendments proposed to it; but instead thereof, you have sent me a message filled with unjust reflections upon the amendments proposed by me, and plainly designed to represent me, as having no regard for the health or safety of the inhabitants of this country; in doing which, I cannot think

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you have paid a proper regard to truth. However, as it is not my intention to enter into a controversy with you upon that bill, which might have been agreed upon between us, had the usual method of proceeding in such cases been pursued by you, I shall say nothing more upon the head, especially as this matter seems purposely chosen to lead me and the public from considering that part of your conduct that must, in its consequences, most nearly affect the inhabitants of this province.'

It is in every reader's power to confute every article of this message from the materials before him, though not to account for the governor's reasons for so unseasonably exposing himself; but as we have heard one party, 'tis fit we should hear the other, and if they have been guilty of any partiality, or failed in any point of justice to themselves, let him supply the defect or correct the error that finds himself qualified so to do.

The piece that ensues was their answer. To wit:

'*May it please the Governor*,

'When we met, in obedience to the governor's summons, on the 17th of March last, we really brought with us the sincerest inclinations to promote the public service, by granting the supplies expected by the crown; and we trust it will appear to all who impartially examine the proceedings of that session, that we did every thing in our power, as our affairs were then circumstanced; and consequently that the danger to which this country stood exposed, and his majesty's repeated and affectionate calls, had great weight with us, whatever they had with the governor.

'The bill we sent up, for striking the sum of twenty-five thousand pounds, and giving the same to the king's use, and for providing a fund to sink it, had nothing extraordinary in its nature, or differing from other bills heretofore passed or presented for like purposes in this province, excepting that the sum given was extraordinary, compared with the time proposed for sinking it; the sum for the Canada expedition, in the last war, being but five thousand pounds, to be sunk in ten years, and this sum, though five times greater, was to

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be sunk by the same fund, in the same number of years. In the bill five thousand pounds of the sum was appropriated to pay for provisions bought and given for the use of the forces in Virginia, under general Braddock; ten thousand pounds more was given to buy provisions for the New England forces under his command; five thousand pounds more was subjected to his order, and to be disposed of for the king's service as he should think fit; and the remaining five thousand pounds was appropriated for the subsistence of Indians taking refuge in this province, payment of posts or expresses, hire of carriages, clearing of roads, and other necessary contingent expences for the king's service, as might be incumbent on this government to discharge. Thus the whole twenty-five thousand pounds was appropriated to the king's service; and almost all of it to the immediate use of general Braddock, or to such purposes as were by him especially recommended in his letters, laid before the house by the governor. The members of the house, mentioned by the governor, were to have no share in the disposition of it; it was disposed of by the bill, and they could only have the trouble of laying it out according to the appropriation, and keeping the accounts. This is truth, and well known to the governor, if he perused our bill with any degree of attention; yet how differently is it represented in the governor's message! it is called only, "a bill for striking twenty-five thousand pounds;" which is but a part of the title, the words, "and for giving the same to the king's use," being (as it would seem) carefully omitted, lest they might militate against the assertion which immediately follows, that, "twenty thousand pounds of it was subjected to the disposition of some members of the house, and of the assembly for the time being." Then it is said, "it gave general Braddock a power over no more than five thousand pounds," because it gave him a power to draw for, and appropriate as he pleased, no more than that sum, though all the twenty-five thousand pounds (except a small part for the support of Indian refugees, which is likewise for the king's service) was appropriated for his, and his army's use, or services by him required; and we cannot learn

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that any other colony besides, hath given, or offered to give, that gentleman a power over as many pence. Great subtilty and dexterity appear in this manner of disguising truths, and changing appearances, but we see in it very little candor and ingenuity.

'In the next paragraph of the governor's message, there are many assertions in which we think we are equally misrepresented; we are charged with "offering money in a way, and upon terms which we knew the governor could not, consistent with his duty to the crown, consent to." We really thought, and still think, it was inconsistent with his duty to the crown to refuse it; if we are mistaken, 'tis an error in judgment; we have appealed to our gracious king on this head, and we hope for a favorable determination. We are charged with "trifling with the king's commands, and refusing to give at all," though we have actually given great sums in obedience to those commands, and earnestly endeavored to give much greater, which the governor refused, unless we would give in a manner which we think inconsistent with our present just liberties and privileges, held under the royal charter. We are charged with "resolving to aggrandise our own power, and destroy that of the crown;" a charge as we conceive, utterly groundless, and for which we have never given the least foundation. We are charged with a "scheme of independency." We have no such scheme, nor ever had; nor do we, as a part of the legislature, desire any independency but what the constitution authorises, which gives us a right to judge for ourselves and our constituents, of the utility and propriety of laws, or modes of laws, about to be made; and does not yet, and we confide never will, oblige us to make laws by direction. We are charged with grasping at the disposition of all public money, and at the power of filling all the offices of government: a charge, as we conceive, equally groundless and invidious; we have, by law, a right to dispose of some public money, and we cannot be properly said to grasp at what we are in possession of; that part of the public money which the governor receives, arising by licences, &c. great as it is, he disposes of as he pleases, and

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we have never attempted to interfere in it; nor can one instance be given of our attempting to fill any office, which we are not by some express law impowered to fill. But the heaviest charge of this paragraph concludes it; the governor is pleased to say, "when his majesty and the nation are at the expence of sending troops for the protection of these colonies, you refuse to furnish them with provisions and necessary carriages, though your country is full of both; unless you can at the same time encroach upon the rights of the crown." This charge is really amazing! it requires, however, no other answer, than a simple relation of fact. In the same session, and as soon as it appeared there was no hope of obtaining the bill for giving twenty thousand pounds to the king's use, and many weeks before the forces arrived, we voted and gave five thousand pounds to purchase provisions and other necessaries for those forces; these provisions were accordingly bought, and are sent to Virginia, being the full quantity required of us; we have since given ten thousand pounds to purchase provisions for the New-England forces; it was given as soon as requested, and before the troops were raised; those provisions are most of them actually purchased, great part sent away, and all will probably be at the place appointed before they are wanted. We gave not a pound of provision less than was asked of us, and all the carriages required of us have been furnished. This has been done with the greatest readiness and alacrity, and done, we conceive, without the least encroachment on the rights of the crown, unless "borrowing money on our own credit" (which we thought even every private man had a right to do, if he had any credit) be indeed such an encroachment.

'Indeed the next paragraph begins with charging this upon us as a crime, "you have, the governor is pleased to say, by a vote of your own house, without the consent of the government, impowered a committee of your members to borrow money upon the credit of the assembly, and to dispose of the same to certain uses in that vote mentioned." By this caution in expressing the uses, a stranger might imagine, that they were wicked, if not treasonable uses and that the

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governor, out of mere tenderness for his people, forbore to explain them; but the uses mentioned in the votes, are, to purchase fresh victuals, and other necessaries, for the use of the king's troops at their arrival; and to purchase and transport provisions requested by the government of the Massachusetts-bay, to victual the forces about to march for securing his majesty's territories. These are the uses, in the votes mentioned, and the only uses; and we can conceive no reason for touching them so gently by the name of certain uses, unless the governor thought, that being more explicit on the uses, might seem to lessen, in some degree, the heinous crime of borrowing money on our own credit.

'The governor is pleased to add, "you have also, by votes and resolves, of your own house, created bills, or notes of credit, made payable to the bearers thereof, to the amount of fifteen thousand pounds, which you have issued in lieu of money, and they are now circulating in this province, without the approbation of the government." This charge, we presume, will, like the rest, vanish on a little explanation. By the laws of this province now in force, and which have received the royal assent, the disposition of the interest-money, and excise, is vested in the assembly for the time being: out of this revenue the assemblies have, from time to time, defrayed the charges of government. The constant method of payment was always this; when an account against the public was allowed, or any expence for public service agreed to, an order issued, drawn on the treasurer, or trustees of the loan-office, and signed by the speaker, or the clerk, by order of the house. As these orders were generally paid on sight, they naturally obtained some credit, and sometimes passed through several hands before payment was demanded. At the last settlement of the public accounts, it appeared, that a considerable sum of this interest and excise-money, over which the assembly alone had a legal power, ought to be in the hands of the treasurer and trustees. The governor himself was pleased to point this money out to us, to compute the sum, and urge the house to make use of it, when in January last he refused their bill for giving

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twenty-five thousand pounds to the king's use. The house alleged, and truly, that the money was outstanding in many hands, and could not suddenly be collected, without distressing and ruining the people. However, on the credit of this fund, we voted the first five thousand pounds for provisions, and ordered the money to be borrowed on interest. And at the last sitting, when the governor refused to pass our bill for giving twenty-five thousand pounds to the king's use, he may be pleased to remember, that he sent us down a message in which, after the reason given for not passing the bill, there are these words: "As this is a time of imminent danger, and the forces raised and destined for the service of the colonies, must wait the supplies from this province, I again intreat you to fall upon some other method of raising money, that we may not lose this happy opportunity of recovering his majesty's dominions now invaded by the French king." The house accordingly fell on this other method: they gave ten thousand pounds of the money in their power to the king's use; they appointed a committee to purchase the provisions required, and impowered them to draw for the sum on the treasurer or trustees of the loan-office, as had been usual; with this only difference, that as former draughts were payable on sight, and therefore bore no interest, these being payable in a year, were to bear interest; and in the mean time the outstanding money was ordered to be got in, that the draughts might be punctually discharged. Monied men, knowing the goodness of the fund, and confiding in the justice and punctuality of the assembly, which has always honourably discharged the public debts, have voluntarily furnished the committee with cash for these draughts, which they have laid by in their chests to receive in time the interest. Thus the king's forces have been expeditiously supplied, the people have time to pay off their debts to the public, and no one is oppressed, distressed, or injured; nor is any encroachment made on the powers of government, or any thing done that has not been usual, or which the assembly are not by law impowered to do. Yet this is what the governor represents as "creating bills of credit, and issuing them in lieu of

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money, without the approbation of the government;" by which, persons unacquainted with the fact, might understand we had been making paper-money, and issuing it on loan, or in some other manner, to produce an advantage to ourselves, and attempted to make it a legal tender without the governor's assent, &c. all which is mere misrepresentation or misapprehension, as will appear by the resolves themselves, to which we beg leave to refer. After this explanation of our conduct, we believe it will clearly appear, that the governor's insinuation, as if we had used powers dangerous to the government, is as groundless as it is unkind.

'The other charges, of "denying the governor access to our journals, and printing the secretary of state's letters," having been made and answered in former messages between the governor and the house, we think it unnecessary to take any further notice of them here. But we are surprized to find, that after having effectually given fifteen thousand pounds, in provisions and other necessaries for the king's forces, maintained at so great an expence our Indian allies, established a constant regular post through two hundred miles of country, merely for the service of the army, and advanced a considerable sum to make a long and chargeable road through the wilderness and mountains to the Ohio, for the use of the king's forces, the whole expence of which we have engaged to defray, we should still be flatly told by the governor, "That he is convinced from the whole tenor of our behaviour, that we have no design to contribute any thing towards the defence of this country."

'The governor is pleased further to censure us, for not desiring a conference on the bill to prevent the importation of Germans, or other passengers, in too great numbers in one ship or vessel, and to prevent the spreading of contagious distempers, &c. We own that it is sometimes practised, when the governor and assembly differ in judgment concerning a bill, to request a conference, if there be any hope by such a conference to obtain an agreement; but we being, from many circumstances attending the bill, without such hope at present,

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contented ourselves with laying before the governor, in a message, our reasons for not agreeing to his proposed amendments, and submitted those reasons to his consideration; the bill may still be resumed, and a conference entered into at a future session, if there should be any prospect of success. If our proceeding was irregular, which we think it was not, the governor may be pleased to remember, he himself set us a more irregular example at our last sitting, when we presented him the bill for granting twenty-five thousand pounds to the king's use; for he neither proposed any amendment, nor desired any conference, nor would return us our bill (when we expressly sent for it to be reconsidered) according to the constant custom in this government, but only acquainted us, that, "it being a bill of a very extraordinary nature, he would send it home to the ministry," which we hope he has accordingly done, as we believe it will be found, however the governor may have misapprehended it, to have nothing extraordinary in its nature, or inconsistent with our duty to the crown, or assuming more than our just rights and privileges.

'On the whole, while we find the governor transforming our best actions into crimes, and endeavoring to render the inhabitants of Pennsylvania odious to our gracious sovereign and his ministers, to the British nation, to all the neighboring colonies, and to the army that is come to protect us; we cannot look upon him as a friend to this country. We are plain people, unpractised in the sleights and artifices of controversy, and have no joy in disputation. We wish the governor of the same disposition; and when he shall, as we hope he will, on better consideration, alter his conduct towards us, and thereby convince us that he means well to the province, we may then be able to transact the public business together with comfort both to him and ourselves; of which till then we have small expectation.'

Such was the language of liberty, truth, and candor.....we feel the force of it.....we cannot resist its authority! and if the governor had the mortification to find they had ordered both his message and their answer to be printed in their gazettes,

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he had also the pleasure to find himself excused for the present by their adjournment, from the impossible task, of constructing such a reply as the pressure of his case required.

Perhaps they thought the absurdity he had fallen into, by charging them with a resolution to take advantage of their country's danger, to aggrandize and render permanent their own power and authority, too glaring to need any comment. Perhaps they did not think it proper to retort, that the inhabitants of a colony, so remote from the principal seat of empire, had abundantly more to apprehend from an excess of power in their governor, than the governor could possibly have from a like excess in their representatives; the executive, as before observed, being a single principle always in force, and the legislative composed of two co-equal principles, which must always tally, or can no otherwise operate, than by restraining and controlling the operations of each other, as in the case before us; and, perhaps, they had not the resolution of the house of commons of July 2, 1678, in sight at that time, which was as follows, viz.

'That all aids and supplies granted to his majesty in parliament, are the sole gift of the commons; that all bills for the granting any such aids and supplies ought to begin with the commons; and that it is the undoubted and sole right of the commons to direct, limit, and appoint in such bills, the ends, purposes, considerations, conditions, limitations, and qualifications, of such grants, which ought not to be changed by the house of lords.' To say nothing of certain remarkable provisions of theirs in the year 1678 (which, in a course of conferences with the lords, they adhered to) to appoint a receiver of their own for the administration of the money then granted for the payment and disbanding of the army, and the payment of the same into the Chamber of London, instead of the Exchequer.

Their adjournment was to the first of September; but they were assembled by special summons on the 13th of June; and the first minute on their books of public note is, one, to specify the approbation given by the lords justices to governor Thomas's act for granting five thousand pounds out of

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bills of credit for the king's use. The date of this approbation is October 9, 1748, so that it was subsequent to the king's instruction so pertinaciously insisted upon; and having, either by some accident or neglect been overlooked thus long, the governor, as we have seen, had in the December before taken the advantage to express himself thus hardily to the assembly: 'Colonel Thomas's conduct is no rule to me, nor will mine be for any one that may succeed me; and if we may judge from his not transmitting that act to England, we may presume, that he did not look upon that particular as the most recommendatory part of his administration. It is true, he was never censured for it; and, indeed, how could he, as the transaction was never made known to his majesty or his ministers.'

And the next minute that follows this, concerning the said approbation, notifies,

That sundry letters from sir Peter Halket and colonel Dunbar were then read, acknowleging the receipt of certain presents from the house to the officers of their respective regiments, of the most considerate and acceptable kind, and returning thanks for the same.

The reason of this summons assigned by the governor in his message was to this effect, 'That general Braddock having begun his march towards fort Du Quesne, had represented to him, 'That in case he should reduce that fort, his intentions were to leave a garrison, with all the guns, stores, &c. he should find in it; that in case the French should abandon and destroy the fortifications, &c. as he had reason to apprehend they would, he should then repair it, or construct some place of defence; but that in either case, as the artillery, stores, &c. he had with him would be absolutely necessary for the prosecution of his plan, he was determined to leave none of them behind him, and expected to have all his wants of that kind, as well as provisions for his garrison, supplied by the governments of Virginia, Maryland, and Pennsylvania; and, that he might not be delayed in his operations, those things might be immediately forwarded to him under proper convoys;' adding, that the said general had

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lately received intelligence, which he had communicated to him, that the French, together with their Indians, intended, as soon as the army was far advanced, to fall upon the back country; and that, though the general thought it a bravado, he also thought it advisable to take all possible precautions against it; that he had called them together upon this application and intelligence; that he had recommended it to them to enable him to furnish such of the things demanded as were proper for the province, and to conduct them to the places where they would be wanted, which could not be well done without a strong guard; as also by a militia or otherwise, to protect the said back country against the incursions of the enemy; that, upon the receipt of the general's letter, he had written to the governors of Virginia and Maryland, to know what shares of these supplies their governments would respectively furnish; that he needed not inforce the point by any other arguments, than that fort Du Quesne was within their province, and that the great expence the nation was at on this occasion would be thrown away, his majesty's intentions rendered abortive, and his arms dishonored, if the countries the said general should recover were left in such a naked condition, that the French might take possession of them again, as soon as the army should be withdrawn, &c.

A very little skill in political matters would have shewn those concerned, that there was rather more management concealed under this speech than was strictly necessary, and put them on their guard accordingly.

The assembly of Pennsylvania had some wisdom as well as much plainness; and therefore, by way of preliminary, desired to have the letter in their custody, which was to be the ground of their proceedings. The governor hesitated: said it contained many matters not proper to be made public; that it would not be safe, therefore, unless the house would previously promise him it should not be printed; but however, he would shew it to a committee, if the house would appoint one for that purpose. The house on the other hand, renewed their request in writing, alleged that it had

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always been the custom, when assemblies were called together on occasion of letters received, to communicate those letters; that giving a committee a sight of letters, on which any important step was to be taken, did not seem sufficient; but that the letters should lie before the house to be read as often as necessary to the right understanding of the matters they contained or required; that the governor might safely put his trust in the prudence of the house; in fine, they would hear of no alternative, since the importance of the contents of that letter had been urged as the reason for calling them together at so unseasonable a time of the year; and, as they could not take the letter into consideration without seeing it, they hoped he would not, by starting new methods of proceeding, and engaging them in trivial disputes, any longer obstruct or delay the public service.

This was done the sixteenth. The next day, instead of an answer, the governor sent them down a brace of new messages. One in the morning, giving them to understand, "That the roads they had ordered to be made to the Ohio would be attended with a much greater expence than was at first imagined; that the money sent to the commissaries was already spent; that more was wanting; and, that the general having discharged the soldiers' wives out of the army, with a stoppage of one shilling sterling a week out of their husbands pay for their subsistence, it would become the compassion of the province to supply what would be farther necessary for that purpose;" and another in the afternoon, containing more intelligence. Intelligence he himself had now received, and had forwarded to the general: namely, that several bodies of troops had passed from Canada over the lake Ontario in their way to the Ohio, to join the forces already there; that the French were doing their utmost to engage the Indians on their side; and, rather than fail, were determined to oppose general Braddock with the whole force of Canada. Containing also a repetition of what in effect he had said before concerning the back country; heightened with some new apprehensions, that when the troops were removed, the enemy might either cut off or greatly interrupt their communication

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with the province, which might be every way attended with fatal consequences. And all was made use of to authorize a fresh demand for a militia-law, and a new demand for a supply to enable him to build strong houses on the new road to the Ohio, and to maintain such a number of men as should be necessary to keep the communication between the province and the army open, escort provisions, stores, &c. that the general might neither be forced to weaken his army by making detachments from it, nor expose those detachments to be surprized and cut off; and that he might occasionally make use of them as auxiliaries too, in case the numbers brought against him should make such a reinforcement necessary; and (after having rung all the changes that such a medley of demands and suggestions in such hands was capable of) making the province answerable, as usual, in case of non-compliance, for all mischiefs.

On the 21st, however, when the house (having taken into consideration, that the fifteen thousand pounds given to the king's use in the preceding April, and paid out of the money in the disposition of the house, which was almost exhausted, could not answer all the purposes intended by the bill for granting twenty-five thousand pounds to which the governor refused his assent) had already prepared two money-bills, one for striking ten thousand pounds for the exchange of defaced bills, and one of fifteen thousand pounds more for the king's use, the governor's answer concerning general Braddock's letter came; and therein he asserted, that the governor for the time being had a right to call the assembly together whenever he thought the public service required it; that his speeches or messages were a sufficient foundation for them to proceed upon; that they having, by the plenitude of their own power, not only given their orders to the printers to proceed with the publication of the secretary of state's letters, in contradiction to his to the contrary, but also claimed a right of doing the same by any other papers laid before them, they could not be at a loss for the reason of his caution on the present occasion; that he being answerable for every secret of state that should be communicated to

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him for the king's service, and by the nature of his station the sole and only judge what letters and papers were proper to be made public, did expect a promise of secrecy from the house, either verbal or otherwise, or something tantamount to it; and that otherwise he should not communicate it.

And, on the twenty-sixth following, the assembly returned their answer. In the opening of which, having admitted the governor's right or power to call them together, they, nevertheless, insist on the usual manner of exercising it; that is to say, with a proper regard to the convenience of the members at their harvest, and to dispatch, when necessarily summoned at that or other unseasonable times, for the sake of keeping up a good understanding between the governor and them. 'But,' said they, 'should our governors consider this power, as a power of bringing us together at a great expence to the country, merely to shew their abilities in contriving new modes, or making new demands upon the people, to obstruct the ends of their meeting, we apprehend it will answer no valuable purpose.' That his speeches and messages were a sufficient foundation for them to proceed upon, they also admitted to be occasionally true; but then they were of opinion, on the contrary, that when his writs of summons were founded on letters or advices, referred to in his said speeches and messages, they had a right to have the original papers laid before them; and they averred this had ever been the practice in their province; so that a different conduct at that time could only tend to obstruct the public business before them. 'If governors,' they farther intimated, 'might differ in their modes of conducting themselves, according to the different reasons for choosing them or purposes to be served by them, it became the people nevertheless to be consistent with themselves at all times, which could never be if they did not make original papers the rule of their proceeding. The objection drawn from their printing the secretary of state's letter, so often recurred to by the governor, though so fully confuted, they would not allow to be of any weight, unless he could shew, their printing it had discovered any of his majesty's designs and commands, with respect

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to the French, not more generally known before by his own messages, the public prints, and the speeches of other governors; especially as it had been communicated without any caution, and had been printed before this objection of his was known. Answerable for every secret of state communicated to him by his superiors as such, they seemed willing to allow; but such as he was enjoined to lay before the assembly, they contended, were so to be laid before them, and they were to be responsible for the use made of them afterwards. And as to his sole and only power of judging what papers were fit, and what not, to be laid before the public, they so far disputed it, as to except such papers as were necessary for their justification, which, they presumed, were subject to the decisions of their own prudence only, wherein they were assured he might very safely confide.'

The more trivial this dispute may appear, the more apparent becomes that spirit of perverseness which the proprietaries had let loose, to keep the province in a perpetual broil; till, weary of the conflict, they should grow tame by degrees, and at last crouch, like the camel, to take up what load, and carry it what length of way, their drivers pleased.

On the said 21st of June, when the governor's litigious message thus answered came down, the house sent up their two money-bills with a message, importing, that the several services, by them enumerated, having almost exhausted their treasury, they had sent up a new bill to give the additional sum of fifteen thousand pounds for those purposes; in which bill, said they (for the rest of the message shall be given in their own words) "We have carefully followed the act passed by governor Thomas, in 1746, for granting five thousand pounds for the king's use, and the other acts relating to our bills of credit, confirmed by the crown on the twenty-ninth of October, 1748; from which acts so confirmed, the enacting clauses, so far as they could be made agreeable to our present circumstances, have been inserted in this bill, that every objection arising from the royal instruction to colonel Thomas, in 1740, might be obviated by a direct decision of the highest authority. And as that confirmation of our acts,

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which we presume will have its due weight with our governor, may be more certainly known to him than it appears to have hitherto been, we take the liberty of sending him the original confirmation.

"We have only to entreat the governor would be pleased to give this bill all the dispatch in his power, as our long sitting at this time is in every respect unseasonable, and the presence of many of our members is now absolutely necessary at their homes, for the better security of their harvests under their present calamitous circumstances."

To understand what is here meant by the words calamitous circumstances, it is necessary the reader should be informed, that Pennsylvania having been visited this year with a severe frost and drought, which had obliged the inhabitants in many places to mow their wheat, in order to supply the want of fodder for their cattle, no longer abounded in breadcorn, as it usually does; and very melancholy apprehensions began to be entertained, that the miseries of scarcity would be superadded to those of war.

From the 21st to the 25th, nevertheless, the governor brooded over the two bills (viz. the ten thousand pounds bill for exchange, and the fifteen thousand pounds bill for the king's use), and then sent down a message acknowleging, that many of the bills of credit were in a bad condition; but requiring to be first satisfied, how much of the money formerly struck for exchanging bills, and of which three thousand three hundred and two pounds six shillings and eight pence was at the last settlement remaining in the hands of the trustees, was still so remaining, before he passed that bill. He was answered the same day, that, according to the best computation that could be made, the sum was one thousand three hundred and two pounds six shillings and eight pence. Before that answer could reach his hands, his secretary was dispatched to the house with such amendments to the other, which was the principal bill, as he was, unquestionably, preconvinced the assembly would never comply with. And that this is no uncharitable or unreasonable assertion, is manifest from the whole tenor of his conduct, which

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was demonstrably such as would have better became a French governor than an English one.

The assembly, however, bestowed a proper time of consideration on those amendments, and then acquainted him by message, that they adhered to their bill in all its parts; but accompanied this declaration with a question, Whether he would pass it into a law as it then stood? to which he answered first, that he would take it into consideration; and finally gave it under his hand, that he adhered to his amendments, without assigning any reasons, desiring a conference, or having recourse to any other expedient usual on the like occasions.

The ten thousand pounds bill for exchanging torn and defaced money, met with a better fate: for after some concessions on both sides it was passed into a law; and this was almost the only fruit of a session so unseasonably exacted, and introduced with such extraordinary demands.

They then acquainted the governor by message, that they proposed to adjourn to the first of September then next ensuing; and the governor signified in reply, that he had no objection thereto.

Notwithstanding which he summoned them again to meet on the 23d of July; and they met accordingly, gave him notice thereof as usual, and required a copy of the writs by which they were summoned. His answer was not returned till the next day, and then what he said was to this effect: that he should have laid the business he had for the consideration of the house before them the day preceding, had not the shocking news he had received, prevented his getting it ready time enough; but that the house should hear from him that morning, and also have the copy of the writ as desired.

This shocking news was the strange, unprecedented, ignominious defeat of general Braddock; and what, if possible, is more shocking still, this incident, which, though so inconsiderable to the whole, struck so much horror through every part, had no other effect on him, than the miracles of Moses had on the heart of Pharaoh.

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If the exposed condition of the province had before furnished him with topics for levies of money and troops, and for placing an unlimited confidence in him their governor, and his first movers the proprietaries, he now thought it would render his eloquence irresistible: and at all hazards resolved to make the most of it.

Fear, though most and enfeebler of any of the passions, has the strongest dominion over us; and while we are scarce half of ourselves, it is not to be wondered, that we become the property of any body else.

With a face, and a voice, and whatever else was suitable for the practice now to be tried, did the governor now meet the assembly; and having dispatched his text (the defeat of Braddock) in less than six lines, came at once to use and application in the terms following: 'This unfortunate and unexpected change in our affairs, will deeply affect every one of his majesty's colonies, but none of them in so sensible a manner as this province, which, having no militia, is thereby left exposed to the cruel incursions of the French and their barbarous Indians, who delight in shedding human blood, and who make no distinction as to age or sex.....as to those that are armed against them, or such as they can surprize in their peaceful habitations.....all are alike the objects of their cruelty....slaughtering the tender infant and the frighted mother with equal joy and fierceness. To such enemies, spurred on by the native cruelty of their tempers, encouraged by their late success, and having now no army to fear, are the inhabitants of this province exposed.....and by such must we now expect to be over-run, if we do not immediately prepare for our own defence; nor ought we to content ourselves with this, but resolve to drive and confine the French to their own just limits.'

Here the noble example of the eastern governments (New England) in forcing the enemy to keep a due distance from their borders, was recommended and enforced; and then returning to his main point, he again expatiated thus: 'Allow me therefore, gentlemen, to recommend to your most serious consideration the present state and condition of your coun-

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try, the danger to which the lives and properties of all those you have undertaken to represent, stand exposed at this critical and melancholy conjuncture; and to desire that you would not, by an ill-timed parsimony, by reviving any matters that have been in dispute, or from any other motive, suffer the people to remain any longer undefended, or the blood of the innocent to be shed by the cruel hands of savages. There are men enough in this province to protect it against any force the French can bring, and numbers of them are willing and desirous to defend their country upon the present occasion, but they have neither arms, ammunition, nor discipline, without which it will be impossible to repel an active enemy, whose trade is war. I therefore hope, that you will, without delay, grant such supplies as may enable me not only to secure the people of this province, but by reinforcing and assisting the king's troops, enable them to remove the French from their present encroachments.

'If something very effectual be not done at this time for the safety and security of the province, the enemy, who know how to make the best use of a victory, will strengthen themselves in such a manner, that it will be next to impossible for us to remove them.'

In effect, the assembly chose, for this once, to be blind to the artificial part of his speech, and to discharge their own duty in such a manner, as should leave him, even on his own premises, inexcusable for any failure on his side.

On the very next day they granted an aid to the crown of fifty thousand pounds; and though it is plain by this that they did not want a goad, on the next following, when they had the ways and means of raising this sum under consideration, the governor, by message, apprized them that colonel Dunbar, with the remainder of the king's forces, had reached fort Cumberland; and that, as soon as his circumstances would admit, he intended to continue his march to Philadelphia; and that he had laid these matters before them, that they might fall upon measures, as soon as possible, for the protection of the western frontier.

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But this had not the desired effect; for the assembly in their reply most rationally suggested, that colonel Dunbar's forces might be employed on this service; and requested the governor to make use of his instances accordingly. This he could not refuse; but the sequel may shew how little desirous he was of having the province defended by those forces.

The next day, while the house was debating on the ways and means, among which one was known to be taxing the proprietary estate in proportion with others, a pompous message was sent down, containing an offer on the part of the proprietaries, of one thousand acres of land, west of the Allegheny mountains, without purchase-money, and for fifteen years clear of quit-rents, to every colonel who should serve on an expedition from that or the neighbouring provinces against the French on the Ohio; seven hundred and fifty to each lieutenant-colonel and major; five hundred to each captain, four hundred to each lieutenant and ensign, and two hundred to every common soldier; and requiring the house to afford some assistance to such as should accept the same.

To make up weight, a letter of intelligence from an Indian trader lately returned from Canada, whither he had fled to avoid being apprehended for killing a man, was sent along with this message; and, upon the heels of both, a remonstrance (not a petition) was conjured up, from sundry inhabitants of the city and county of Philadelphia (emigrants from the famous borough of Totness it must be presumed) and presented to the assembly, containing a submissive conceit, that one hundred thousand pounds, was as small a sum as would answer the present exigency; and signifying the willingness of the presenters to contribute their proportion of the same, or of a larger sum if necessary; not to insist on sundry petitions from many of the inhabitants of three townships; and two more from sundry inhabitants of the county of Chester, who made it their prayer to be furnished with arms and ammunition for defence of their houses and families.

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The assembly, in the mean time, with a degree of composure and steadiness, which, in a higher orbit, would be called dignity and magnanimity, delivered their sentiments and purposes in one address to the governor, in the following concise but weighty terms: viz. "We have deliberately and seriously considered the governor's speech of the twenty-fourth instant, together with the letters and papers he has been pleased to lay before us, by which we find, that the defeat of the forces, under the immediate command of general Braddock, and the retreat of colonel Dunbar, to fort Cumberland, are attended with very shocking circumstances; nevertheless, it gives us real satisfaction, under this unfortunate and unexpected change in our affairs, that this province has seasonably and cheerfully complied with the demands of the king's forces, and that no part of this unhappy defeat can be laid to our charge.

"We think it our duty on this occasion to be neither parsimonious nor tenacious of such matters as have been in dispute, and are now under the consideration of our superiors; but, reserving to ourselves all our just rights, we have resolved to grant fifty thousand pounds for the king's use, by a tax on all the real and personal estates within this province, in which we shall proceed with all possible dispatch; hoping to meet in the governor the same good dispositions he so earnestly recommends to us.

"The governor's call of our house at this time is agreeable to us, as it impowers us to exert ourselves yet farther in the service of our country; and the like opportunity given to the lower counties, under the governor's administration, we doubt not will be acceptable to them, and add their contribution to the common cause, before the time to which they stand adjourned."

And now a plain, unrefining reader would think, that, the danger of the province being so great as the governor had described it, and the disposition of the assembly so sincere to provide for its security, the issue of the session could not but be as happy as the prospect was promising.

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The very reverse of this, however, happened to be the case. The assembly found the proprietaries in possession of an immense estate, in lands and quit-rents; this estate was as much endangered as any other estate, and was to be defended in common with the rest; they did not think the immensity of it gave it any title to any exemption of any kind, and they found no such exemption specified in any of their charters.

Proceeding, therefore, by the rules of reason and equity, as well as policy, they taxed the whole land alike; and subjected the proprietaries, as land-holders, to a proportional share of all the claims and impositions, which their deputy would have exempted them from as governors in chief, and was so strenuous for imposing on the people alone; and this one bitter ingredient was *mors in olla*, death in the pot. The burdens laid by the proprietaries, or by proprietary power on the province, could not be too heavy; but they themselves would not charge a finger with the least part of the weight of them.

On the same day that the bill was sent up, it was returned with such amendments, as entirely exonerated the whole proprietary estate; and the following message was immediately prepared by the assembly, and dispatched to the governor, to wit:

'*May it please the Governor*,

'The taxing of the proprietary estate with the estates of the people of the province, for their common security in this time of imminent danger, seems to us so perfectly equitable and just, that we are surprized the governor should propose it as an amendment to our bill,[9] that the proprietary estate be in this instance exempted.

'As the occasion urges, we are extremely desirous to come as soon as possible to a conclusion in the business of

[9] The bill laid the tax on all estates real and personal throughout the province, the proprietary estate 'not excepted.' The amendment proposed was in these words, 'Dele the word [not] and insert the word [only].' A small, but very significant alteration!

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this sitting; and do therefore entreat the governor would be pleased to acquaint us explicitly, whether he is restricted by the proprietaries from passing the bill as it stands in that particular, though it were otherwise consistent with his judgment, since it will only waste time to endeavor to convince him of its reasonableness, if after all it will not obtain his assent.

'Or, if it be possible that such exemption of the proprietary estate from its share in the common expence of securing the whole, should appear to the governor a thing right in itself, we would then request him to favor us with the reasons of his opinion, that we may take them immediately into consideration; for till this matter is explained, and understood, we think it needless to consider any other proposed alterations.'

To this the governor the next day replied.

'*Gentlemen*,

'In answer to your message of yesterday, you will give me leave to observe, that in the proprietary commission appointing me to this government, there is a proviso that nothing therein contained shall extend, or be construed to extend, to give me any power to do or consent to any act whereby the estate or property of the proprietaries may be hurt or encumbered; and this proviso being contained in the body of the commission from which I derive the power of acting as governor, it is not only the highest prohibition to me, but any law that I may pass contrary to that proviso, I imagine, would be void in itself for want of power in me to give it a being.

'But had I not been thus prohibited, I should still have thought it my duty, to have excepted the proprietary estate from the levies proposed to be made, for the following reasons.

'1. For that all governors, whether hereditary or otherwise, are, from the nature of their office, exempt from the payment of taxes; on the contrary, revenues are generally given to them to support the honour and dignity of government, and to enable them to do the duties of their station.

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'2. For that this exemption from taxes arising from the nature of government, is enforced by a positive law in this province, which expressly declares, that the proper estates of the proprietaries shall not be liable to rates or taxes.

'3. For that the proprietaries, by their governor, having consented to a law for vesting in the people the sole choice of the persons to assess and lay taxes in the several counties, without reserving to themselves, or their governor, any negative upon such choice, and this concession being made with an express proviso, that the proprietary estates should not be taxed, it will be very unreasonable to empower such persons by a law, without their previous consent, to tax their estates at discretion.

'4. For that it is contrary to the constant practice and usage in this and all the proprietary governments upon this continent, so far as I have been informed, to lay any tax upon the lands or estates of the proprietaries, exercising the government by themselves or their lieutenants.

For these reasons principally I made the amendments, relating to the proprietary estate, to your bill for giving fifty thousand pounds to the king's use, and I hope, gentlemen, they will be sufficient to induce you to agree to those amendments. Were the proprietaries now upon the spot, I know their love and affection for this country to be such, that they would do any thing in their power for its preservation and safety; but as they are not here, I have, on their behalf, proposed to give lands west of the Allegheny mountains, without any purchase-money, and free from the payment of quit-rents for fifteen years to come, and then not to exceed the common quit-rent in this province. The particular quantity proposed as an additional encouragement for each officer and soldier, is expressed in a message to you upon that head.'

And the next day but one the assembly rejoined, "That the intention of the bill was not to hurt or incumber (it being as little in their power or intention to hurt or incumber the estates of their constituents, as in the governor's to hurt or incumber the proprietary estate) but to free it from hurt

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and incumbrance; the worst of incumbrances, the neighborhood of so mischievous an enemy, who, as they had been repeatedly told by the governor, had taken actual possession of some part, and laid claim to a much greater part of the proprietaries' country; they could not conceive how the giving a part to save the whole, and, in the proprietary's case, not only to save the whole, but to render it of double or treble value, could properly be called hurting or incumbering an estate; that if the argument had any force, it had the same force in behalf of the people; and, consequently, he ought in duty to reject both parts of the bill for the same reason; that for their parts, happening to think otherwise, they had laid the tax as cheerfully on their own estates as on those of their constituents."

"That the proposed grant of lands, for the encouragement of military adventurers, west of the Allegheny mountains, without any purchase-money, was as absolutely irreconcileable with the letter of the proprietary proviso in his, the governor's commission, as his assent to the tax upon their estate could be represented to be; that if their love and affection for their country was such, that if they were on the spot, they would do any thing in their power for its preservation; and if the governor, presuming on that love and affection, thought himself at liberty to dispense with so positive a prohibition, it might be asked, why could he not venture to do the same in one instance for the same reason as in the other? and if the grant of lands would be valid, notwithstanding such prohibition, why would not his assent to the bill be the same? that this magnified offer had in reality been proposed only to make the taxing of the proprietary estate appear less reasonable; that it was in effect an offer of amusement only, good lands not being so much as specified; and as good as the best there, being to be had in Virginia (where quit-rents were but two shillings, whereas the common quit-rents in Pennsylvania were four shillings and two pence sterling) without purchase-money, and with the same exemption of that quit-rent for fifteen years to come, so that the encouragement so graciously offered to those adventu-

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rers to recover the proprietaries' lands out of the hands of the enemy, was at the bottom no better than a proposal to reward them with a part of the lands they were so to recover, at more than double the price demanded in the neighbouring province, without any of the risque they were in the present case to be exposed to.

"That the governor being vested by the royal charter itself with all the powers granted thereby, for the good and happy government of the province, was in full capacity to pass the law in question, the proprietaries having no authority to restrain those powers; and all such restraints having been already considered and declared as null and void."

"That they did not propose to tax the proprietary as governor, but as a fellow-subject, a land-holder and possessor of an estate in Pennsylvania, an estate that would be more benefitted by a proper application of the tax than any other estate in the province; that the proprietary did not govern them, that the province, at a large expence, supported a lieutenant to do that duty for him; that if the proprietary did govern them in person, and had a support allowed him on that account, they should not have thought it less reasonable to tax him as a land-holder for the security of his land; that they, the representatives of the people, were also allowed wages for their service in assembly; and yet the governor, they insinuated, would hardly allow it to be a good reason why their estates should therefore be tax free; that it was scarce to be supposed the proprietary could, from the nature of his office, derive higher pretensions than the king himself; and yet that the king's tenants were, by every land-tax act, impowered to deduct the same out of their rent; and that the king's receivers were obliged, under severe penalties, to allow of such deductions; but that this was not the first instance by many, in which proprietors and governors of petty colonies have assumed greater powers, privileges, immunities, and prerogatives, than were ever claimed by their royal master, on the imperial throne of all his extensive dominions."

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"That the positive law of this province hinted at by the governor as exempting the proprietaries' estates from taxes, was no other than the law for raising county rates and levies, which were in the same act appropriated to purposes for which the proprietaries could not reasonably be charged (as wages to assembly-men, rewards for killing wolves, &c.) not a general, constitutional law of the province; that by a positive law, the people's representatives were to dispose of the people's money, and yet it did not extend to all cases in government; that if it had, amendments of another kind might have been expected from the governor; seeing, that, in consideration of the purposes of the grant, they had allowed him a share in the disposition, and that he, by his last amendment, proposed also, to have a share in the disposition of the overplus, if any."

"That they begged leave to ask, whether, if the proprietary estate was to be taxed as proposed, it would be equitable for the owner to have a negative in the choice of assessors, since that would give him half the choice, in lieu, perhaps, of a hundredth part of the tax; that as it was, he had officers, friends, and other dependants, in every county, to vote for him, in number equal to the proportionable value of the share of the tax; that if the proprietary shrunk at the injustice of being taxed where he had no choice in the assessors, they again asked, with what face of justice he could desire and insist on having half the power of disposing of the money levied, to which he would not contribute a farthing; that there was great impropriety in saying the proprietary estate was by this act to be taxed at discretion, seeing the assessors were to be upon their oaths or solemn affirmations, which gave the proprietary as good security for equity and justice as any subject in the king's dominions."

"That as to the governor's plea, deduced from usage and custom, they alleged, usage and custom against reason and justice, ought to have but little weight; that the usage of exemptions in cases where the proprietary estates could not be benefitted by a tax, was not in point; that if it was, so far as regarded the estates of persons exercising government by

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themselves or lieutenant, it could not include the estates of proprietaries, who not only did not exercise government by themselves, but would moreover restrain their lieutenants from exercising the just powers they were vested with by the royal charter."

And their last paragraph was at once so cogent and pathetic, that it ought to be given in their own words, which cannot be amended. To wit:

'On the whole, we beg the governor would again calmly and seriously consider our bill, to which end we once more send it up to him. We know that without his assent the money cannot be raised, nor the good ends so earnestly desired and expected from it be obtained, and we fear his resolution to refuse it. But we entreat him to reflect with what reluctance a people born and bred in freedom, and accustomed to equitable laws, must undergo the weight of this uncommon tax, and even expose their persons for the defence of his estate, who, by virtue of his power only, and without even a colour of right, should refuse to bear the least share of the burthen, though to receive so great a benefit! with what spirit can they exert themselves in his cause, who will not pay the smallest part of their grievous expences? how odious must it be to a sensible manly people, to find him who ought to be their father and protector, taking advantage of public calamity and distress, and their tenderness for their bleeding country, to force down their throats laws of imposition, abhorrent to common justice and common reason! why will the governor make himself the hateful instrument of reducing a free people to the abject state of vassalage; of depriving us of those liberties, which have given reputation to our country throughout the world, and drawn inhabitants from the remotest parts of Europe to enjoy them? liberties not only granted us of favor, but of right; liberties which in effect we have bought and paid for, since we have not only performed the conditions on which they were granted, but have actually given higher prices for our lands on their account; so that the proprietary family have been doubly paid for them, in the value of the lands,

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and in the increase of rents with increase of people. Let not our affections be torn in this manner from a family we have long loved and honored! let that novel doctrine, hatched by their mistaken friends, "that privileges granted to promote the settlement of a country, are to be abridged when the settlement is obtained," iniquitous as it is, be detested as it deserves, and banished from all our public councils! and let the harmony, so essential to the welfare of both governors and governed, be once again restored; since it can never be more necessary to our affairs than in their present melancholy situation! we hope the governor will excuse some appearance of warmth, in a cause of all others in the world the most interesting; and believe us to be, with all possible respect and duty to the proprietary family and to himself, his and their sincere friends and well-wishers.'

The governor, on the other hand, to find them employment while he had this puzzling paper under his consideration, called upon them again in his majesty's name, like any constable, to put the province into a posture of defence by establishing a militia, so as that a due regard might be had to scrupulous consciences; and demanded an explicit answer.

This was done August 9, being Saturday; on the Monday following, he gave them to understand, by another message, that being quite uncertain, what effect his letters to colonel Dunbar with regard to the posting his troops on the western frontiers, would have; having also been required by him to provide quarters for his troops, and having upon application to the mayor and corporation of Philadelphia, to provide quarters for them accordingly, been told, that they knew of no law to authorize them for so doing; a law would be necessary for that purpose, and recommended it to them to prepare one, those troops being then upon their march into the province, whether they were to remain there or not.

And on the morrow he plyed them with another teazer; which, together with the assembly's answer of the same day, and his rejoinder of the 16th, shall be given in the respective terms they were delivered.

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'*Gentlemen*,

'I am importuned by the Indians, to let them know what it is this government has to impart to them. If they can be made hearty for us, they may prevent a great deal of mischief, engage other Indians in our favour, and be prepared for any other service that we may think proper to employ them in.

'To do this will require great skill, and an open hand, for presents they certainly expect, and will not, at this time, be satisfied with small ones.

'The Owendaets came, on our invitation, and such terms must therefore be offered them as will effectually engage their friendship; the matter cannot now be minced neither with them nor the other nations. You will therefore please to consider this matter well, and give me your sentiments and counsel in this nice and critical situation of our affairs.'

The assembly's answer.

'*May it please the Governor*,

'The secretary, by a verbal message from the governor, on the twentieth of December last, acquainted the house, "that Scaroyady's son-in-law was charged with a message from the Owendaets, to enquire what their brethren the English designed to do in regard to the late encroachments of the French; and having heard, since he came to town, that the king of England intended to send over a number of troops to assist in repelling those invaders, he was willing, if the governor thought proper, to return to his nation, and acquaint them with the joyful news; the governor therefore desired the opinion of the house, whether it would be most advisable for Scaroyady's son-in-law to return now to the Ohio, or go to Onondago with Scaroyady." Whereupon the house gave for answer, that it was their opinion that it would be most proper for Scaroyady's son-in-law to return to the Ohio as soon as conveniently he could. This is all the part our house have had in relation to the Owendaets; neither did we know of the least intention of inviting them, or any others; so that as they are now come down without our knowlege or request, entirely upon the governor's invitation,

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it is some surprise to us to find the Indians should have reason to importune him, or that he should be at any loss to know what it is he has to impart to them on this occasion.

'Our conduct towards the Indians in our alliance has been always candid, and free from any subterfuge whatever, so that we do not understand what the governor would mean by telling us "that the matter cannot be now minced, neither with them nor the other nations." And we are likewise at a loss to conceive why they should expect great presents from us who are wholly ignorant of the intention of their coming.

'The governor has been pleased to refuse his assent to our bills which had provided for Indian and other expences, and as our treasury is exhausted by the very heavy charges for the king's service, these Indians are come among us at a very unfortunate time, when it is not in our power to supply them in the manner we are inclined to do; however we will do all that can be reasonably expected from us, and must leave the rest to be supplied by the proprietaries, whose interest is at least as much concerned as ours in engaging the affections of the Indians at this time.'

The governor's rejoinder.

'Gentlemen,

'If my message gave you room to think that the *Owendaets* came here on a particular invitation of mine, at this time, I have led you into a mistake. They set out from their country, as they have informed me, on the plan set forth in the minutes of council of the twentieth and twenty-fourth of December last, which were laid before you.

'The other Indians, at their request, accompanied them hither as they were strangers; and Scaroyady says, he has some particular business to transact with this government. I have, in the name of the province, given thanks to the Owendaets for this kind visit, and to those of the Six Nations that were with our army in the late action; assured them all of the affections of the English; recommended to them to continue firm in their attachment to us; and given them room to expect some presents as a token of our regard.

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'As the treasury is exhausted, I can only say, that I will readily pass a bill for striking any sum, in paper-money, the present exigency may require, provided funds are established for sinking the same in five years.

'The secretary will communicate to you what was said to the Indians yesterday, and I shall lay before you what may further pass between us, and earnestly recommend it to you, to enable me to send these people away perfectly satisfied.'

In this interval also, the governor, in another written message, did his utmost to refute the arguments urged by the assembly, to justify their claim to tax the proprietary estate; but as the paper is long, and the assembly's answer to it much longer; as the dispute was again and again revived, and a thousand ways diversified; as the data already before us afford sufficient grounds for a fair decision; and as it would require the phlegm of a German to wade through all the minutenesses of it, all these pieces may be collected in an appendix, for the sake of those so fond of precision, that they cannot be satisfied unless they see the whole of a controversy together.

The assembly, however, on the very day that they received the governor's paper, prepared him to expect a full, and as they hoped, a satisfactory answer; and in order that the public business of the greatest importance might not any longer be delayed by such disputes, took leave to acquaint him, "That the bill they had sent up to him was a money-bill, granting fifty thousand pounds to the king's use, which they saw no reason to alter; that they, therefore, adhered to their bill, and desired the governor would be pleased to give his final answer, whether he would pass it or not, as it then stood?"

And upon the next, the governor signified in writing, to the assembly, "That having amended the bill for raising fifty thousand pounds, and not being yet satisfied that it was in his power or consistent with his trust, to pass it without these amendments, whatever he might be when he should hear what they proposed to say to him upon that head, he

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thought it necessary, in answer to their message of the day before to inform them, that he did adhere to the amendments to the bill so by him made."

This message was also accompanied by another, in which the governor specifies, "That he had received a letter from colonel Dunbar in answer to the proposition he had made to him [at the instance of the assembly, should have been acknowleged] for posting part of his troops on the western frontier, signifying, that he was willing to employ them in the best manner he could, for the honor of his master and the service of the public, and inclosing the opinion of a council of war, by which he, the governor, was desired to give them a meeting at Shippensburg, where they would wait till he could join them; and that he should readily have gone thither for that purpose, had he not received another letter from governor Shirley, (in answer to one of his, requesting orders for employing the remainder of the two English regiments in protecting the frontiers of that and the neighbouring provinces) in which he said, he thought it for his majesty's service to employ those troops another way, as those provinces were populous enough to protect themselves; and therefore had sent orders to colonel Dunbar, under cover to him, to march his troops to that city; which he had [already] forwarded to him; and that as the march of these troops would leave the western frontier exposed to the French and Indians, he thought it his duty to communicate those matters to them, that they might, as soon as possible, make provision for the security of the back inhabitants, and for the subsistence of the troops during their march through the province, which might prevent great mischiefs to the people inhabiting near the road from Shippensburg to Philadelphia."

So that the march of our own troops is here discoursed of in such language as renders it doubtful for a moment, whether he is not speaking of the enemy. Governor Shirley's thoughts are immediately received as laws; governor Morris has not a thought to suggest to the contrary; it was for the king's service to leave a province, actually invaded, as the last of these governors had over and over again

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asserted to the assembly, exposed to the ravages of the enemy; and though provision had been at first made for having four regiments to carry on the war in these provinces, these provinces were now all at once supposed to be in a condition to cover themselves, though some of them had not yet armed a man, or beat a drum.

Out of all which, such a jumble of ideas encounter each other, and such a variety of doubts and suspicions arises, that one cannot help wondering that the assembly did not call for these several letters, and from the evidence of their own eyes, and their own understandings, form such a remonstrance, as would have displayed the whole state of things in its proper colours.

In this one instance, therefore, it may be not irrationally supposed, that their usual sagacity failed them; and this failure was no sooner discovered, than the governor came upon them with another message importing, "That his secretary would lay before them the copies of sundry petitions which had been presented to him from several parts of the province, representing their naked and defenceless condition, and praying to be enabled to defend themselves, which they were sensible was not in his power to comply with; that he would also lay before them a letter from one John Harris, giving an account of a large party of Indians actually set out from the French fort with a design to fall upon and destroy the inhabitants of this and the neighbouring provinces; that they had this piece of intelligence as he had received it; that they would form their own judgments upon it; that for his part he thought it probable; and that therefore he recommended it to them to take immediate thought about it, as the consequence would be very terrible to the inhabitants, if the account should prove true, and it could do them no injury to be upon their guard if it should prove false."

This was dated the 15th.....the 16th he farther gave them to understand, "That he found, by an extract of a letter from governor Lawrence, of Nova Scotia, to lieutenant-governor Phipps, of New England, sent by governor De Lancy, of New York, to him, that the French at Louisburg, were

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in such distress for want of provisions, that if a supply could be prevented, they might be reduced to a necessity of giving it up to us; and that, therefore, he recommended it to them to think of some proper law, that their being supplied from Pennsylvania might be more effectually prevented."

And on the 19th he again notified, "That he had received letters by express from governor Shirley, [which however he did not communicate] acquainting him, that he had wrote to colonel Dunbar, that it appeared clear to him (Shirley) as there would be four months of good weather before the winter set in, that with the number of forces the colonel then had, and the assistances he might have from Pennsylvania, Maryland, and Virginia, he might yet have it in his power, to retrieve the loss sustained in the late defeat, by proceeding to fort Du Quesne, and had sent him orders for that purpose; and that in addition to this, he had said to him, that it would depend on those several provinces to assist colonel Dunbar with reinforcements, provisions, ammunition, artillery, ordnance stores, carriages, horses, and all other things to fit him out for his march, &c. and that he had wrote to the same effect to governor Dinwiddie and governor Sharpe, whose assistance, with that of Pennsylvania, he entirely relied upon at that extraordinary crisis; that he must therefore recommend it to them, to enable him to do the several things so expected of them, to take the matter into immediate consideration, and give him their answer thereto, that he might send it forward to colonel Dunbar, and the said governors of Maryland and Virginia, whose measures would, in a great measure, depend on what he should be enabled to do."

Now general Shirley himself, in the state of his own conduct, which he has lately laid before the public, says, 1st, that colonel Dunbar did not receive any orders whatever from him till about the middle of August, at which time he had advanced far in his march to Philadelphia; and 2dly, that the orders he then sent him, were to march his troops to Albany, there to be ready to assist either in the expedition against Niagara or Crown-point as his majesty's service

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should require, or at least cover the country in case major general Johnson should be defeated by the French, &c. nor does he mention one word of the assistances he expected, or required of the said provinces.

The general, nevertheless, might possibly have sent such orders subsequent.

The assembly did not, however, start any scruple on this head; but, as before, took all upon content; and behaved in every respect, as if they were altogether as solicitous to tax themselves, as their proprietaries.

To render this undeniable, an instance of a very singular kind is now to be brought forward. Certain gentlemen of Philadelphia, not of the assembly, to the number of twenty, subscribed in various proportions, the sum of five hundred and two pounds, ten shillings; and made a tender of it to the house with the following proposal, to wit:

'We the subscribers observe, with great concern that the governor and assembly differ in opinion, in respect to the taxing the proprietaries estate; and lest by such difference in opinion the bill for raising fifty thousand pounds for his majesty's service should not take effect.

'And as the assembly, in their message to the governor, seem to be of opinion, that were the proprietaries lands to be taxed, the sum would not exceed five hundred pounds.[10]

'We, rather than the least check should be given to his majesty's service at this time of imminent danger, by a matter so very trifling, do hereby promise and engage to pay five hundred pounds, money of Pennsylvania, into the public stock, for the king's use, in lieu of what the proprietaries would pay as their part of the fifty thousand pounds, were their lands to be taxed.

'And as we declare the absence of the honorable the proprietaries to be our motive for making this proposal, be-

10 This however was a forced construction put on the words of the assembly by these friends of the proprietary; and it appears by an act afterwards passed, that five thousand pounds and not five hundred pounds was looked upon and accepted as an equivalent for the proprietaries of a sixty thousand pounds tax.

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ing well assured, that were they present it would have been altogether unnecessary; and we doubt not but they will honorably acquit every subscriber of this expence.'

The house, taking it into consideration, resolved, that such a proposal to this house is improper, as this house is destitute of the necessary information to assess any estate duly, and neither can nor ought to assess the proprietaries estate at the sum proposed, or at any other sum whatever; and as, in case the subscribers should neglect or refuse to pay the sum subscribed, it would not be in the power of this house, not being a body incorporate, to sue them for the same. But as the house presumes that the said proposal may have arose from the subscribers judgment of the equity of taxing the proprietaries estate equally with all others in this province, for their common safety, ordered, that the said proposal be sent up to the governor as a further security to him, in case he should give his assent to the bill for raising fifty thousand pounds for the king's use,' &c.

And having on the 19th, prepared a suitable message, sent it up together with their bill, to the governor, under a strong expression of hope, that, with this further security he world cheerfully give his assent to it.

At the same time, also, in a separate message, they farther apprized him, 'that they had taken his message concerning governor Shirley's orders into consideration; and that it was their opinion, his giving assent to their bill, which they earnestly requested of him, would enable him to do every thing, which could be reasonably expected from them.'

And that he might not serve any insidious purpose by his message concerning Louisburg, they sent him the following answer, in which they at once corrected his state of the fact by inserting the very words of governor Lawrence's letter, and left him to answer for his deviation.

'May it please the Governor,

'We have considered the governor's message of the 16th instant, with the extract from governor Lawrence's letter to governor Phipps, in which it is observed, "that if the excellent laws prohibiting the transportation of provisions to

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Louisburg continue in force for two months longer, there is a probability that the governor of that place will be obliged to present the keys of the garrison to Mr. Boscawen.' And our governor is pleased to recommend it to us, to think of some proper law that may most effectually prevent their being supplied from this province; but as an act passed this house, and received the governor's assent, at our last sitting, intituled, "an act to continue an act, intituled, an act to prevent the exportation of provisions, naval or warlike stores, from this province to cape Breton, or to any other dominions of the French king, or places at present in possession of any of his subjects," by which the act continued will be in force at least ten months to come, and has been, as far as we know, effectual for the purposes intended; and as the governor has not pointed out to us any defect in that act, nor has any occurred to us, we cannot at present think what law can be made more effectually to prevent that place being supplied with provisions, &c. from this province.'

And now the period was come, when all capable of conviction, were to be convinced, that, though the governor had laboured hard to establish a belief, that the uncomplying disposition of the assembly was the only obstacle to the current of public business, the contrary was the matter of fact; and that having observed obstinacy on his side never failed to produce some concession on theirs, he had come to a resolution, to proceed in the same course of exaction, till nothing required of him by his instructions was left unperformed; that is to say, till the assembly had nothing left to part with.

The shadow of a royal instruction, so long and so often played before their eyes, was now out of the question; the governor says the province is actually invaded; that a victorious enemy is on the point of ravaging it with fire and sword; the king's troops after having been so many ways gratified and assisted, are recalled; they are told they are to provide for their own defence; they offer fifty thousand pounds to be laid out for that purpose; the proprietary estate becomes liable to a demand, computed by his friends at

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about five hundred pounds, even that five hundred pounds, is offered on the behalf of the proprietaries, by a few private individuals, as an expedient to remove that only difficulty out of the way: and the governor refuses it. So that, if there was any truth in the governor's repeated assertions, the safety of the province, the interest of the public, and the honor of the British crown, were to be alike exposed and endangered, together with the proprietary estate, so impertinently and improvidently put into the scale against all the rest.

To say all at once, his answer to the last proposition, as verbally delivered to the house by his secretary, was in these words, viz.

'Sir, The governor having by message of the 14th inst. informed you, that he did not think it consistent with his power, or trust, to pass the bill for raising fifty thousand pounds, without the amendments he had made to it, and that he adhered to those amendments; is surprized at your message of this day, to which he can only say, that he thinks it his duty to adhere still to the amendments he made to that bill.'

On the same day, also, by another message he put them in mind of his former requisitions concerning a militia; and demanded a plain and categorical answer, whether they would, or would not establish one, "That his majesty and his ministers might be informed, whether, at this time of danger, the province of Pennsylvania was to be put into a posture of defence or not?"

This convinced the house, that all expedient was at an end; and that all the governor aimed at was to bewilder them if possible in another maze of controversy. To discharge themselves, therefore, of every branch of duty, as far as they were permitted to do it with any consistency to themselves, and regard to the fundamentals of their constitution, they first took into consideration the several petitions of the frontier towns, for arms, &c. and resolved, that a sum not exceeding one thousand pounds, if so much remained in the treasury at the disposition of the house by the laws in force,

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should be paid into the hands of a committee of the house, then named, to be by them disposed of, with the concurrence of the governor for the time being, as should appear necessary.

Proceeding then to the governor's verbal message concerning their money-bill; they agreed to return an answer to this effect, viz. "that he, having in his former answer signified, that he was not yet satisfied, &c. whatever he might be, when he heard what they had farther to say, which argued a suspension of his determination, and they having since sent him a long message containing the reasons of their procedure, they could not but be surprized at his surprize, more especially as he had not even then returned their bill; that as to his proposal for striking any sum in paper-money the present exigency might require, provided funds were established for sinking the same in five years, they had no funds equal to so great a sum without the assistance of an equitable tax, to which the governor would always have his objections in favor of the proprietary estate; that as this proposal might lead them back into those disputes, which, by the form of this bill, agreeable to the governor's advice in his speech at the opening of the session, they had studied to avoid, they should be farther surprized to receive it from him, could they find the least reason to think he was sincerely desirous of having any thing done for the defence of the province; and that being now convinced, no farther benefit could arise from their longer sitting, and being to meet of course in a few weeks to settle the accounts of the year, they took leave to acquaint him of their purpose to adjourn to the 15th of September ensuing, in case he had no objection to that time."

Lastly, by the same members that were appointed to carry up this message to the governor, they also sent another concerning a militia, in which having enumerated his several messages in relation to the defence and safety of the province, they wave the point by saying, "That the elections throughout the province being near at hand, they chose to refer that point to a future assembly, and then proceed as

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follows, 'But as we find, by the governor's result upon our bill for granting fifty thousand pounds for the king's use, he cannot think it consistent with the trust reposed in him by the proprietaries to pass that bill, we find by experience that it can answer no good purpose to waste our time in preparing bills for his assent, in which, for the common security and defence of the province, we apprehend it would be a high breach of the trust reposed in us, to exclude the proprietaries estate from bearing any part of the burthen, and if not excluded, as the governor asserts, must at last be rejected by him for want of sufficient powers in his commission; and therefore (had we no other objections) we hope the governor will judge it reasonable, after so many repeated refusals of the bills we have offered to him for granting large sums of money for the king's use, that we now wait the determination of our superiors, what powers he has, or ought to have, as our governor, under the royal and provincial charters; and what exclusive rights our proprietaries may be justly intitled to in the laying and levying of taxes for the common security and defence of their estates, with all the other estates within this province.'

In answer to the first of these messages, so far as related to the time of adjournment, (with which he was verbally acquainted by the messengers) the governor was pleased to say "he had no objection to that time more than any other; but that if he found [on perusal of the written messages then delivered to him] that the house had not given him a satisfactory answer, to his messages relating to a militia, he should call them again immediately."

To the time of their own adjournment, they had, nevertheless, the grace to be indulged with a recess. And on the third day of their sitting, they preferred a request to the governor, "that, if he had any business of importance to lay before them, particularly, if any application had been made to him for a farther supply of provisions, for the use of the king's forces then gone towards Crown-point, he would be pleased to lay it before them soon, as their year was near ex-

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pired, and the time of their continuance together consequently short."

The answer they received was verbal, by his honor's secretary, importing, "that the government of Massachusetts-bay had ordered two thousand eight hundred men to be immediately raised, in addition to the one thousand five hundred before raised for the reduction of Crown-point; and that the governor had the day before received a letter from governor Phipps, desiring, at the instance of the council and assembly there, an immediate supply of provisions to be sent to Albany." And, as if this was not enough to ask of them, a supplemental paragraph was grafted upon it as follows: "the governor has also been informed, that the government of Connecticut have raised fifteen hundred men, and Rhode-Island one hundred and fifty, in addition to the forces sent by those governments against Crown-point, who will also stand in need of a supply of provisions; he therefore recommends these matters to your consideration."

Two articles, out of governor Shirley's state of his own conduct, will come in not improperly here; viz. "Upon Mr. Shirley's arrival at New York (July 4), he found a full stop put to the preparations for the expedition against Crown point, with respect to the articles of artillery and military stores, which the governments of Massachusetts-bay and New York had agreed to furnish between them, depending, that the colonies of Connecticut, New-Hampshire, and Rhode-Island, would pay their proportions of the expence; but that not being done, the government of New York declined parting with the stores, without actual payment or security given. After having removed this obstacle to the expedition's proceeding, by putting into the hands of the government of New York, a sufficient quantity of the Pennsylvania provisions, as a security for reimbursing them on account of the before-mentioned articles, and advanced about one thousand pounds sterling, of his own money, towards the expence of transporting the artillery, and ordnance-stores, in confidence of being reimbursed by the New England colonies, he embarked for Albany."

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The reader will make his own remarks; at least he will infer from what passed in the assembly of Pennsylvania before, in relation to orders said to have been received from and demands, made by general Shirley, that the said assembly would now have been inexcusable, if they had not called upon their governor, for governor Phipps's letter and the other informations referred to upon this occasion; which they did by express message; and that having been told by him in answer to that call, that he had orders from the secretary of state not to lay before the house any papers but such as he pleased, they should apply to him for a sight of such orders.—

They did so, and were again refused; he signifying that such orders being intended for his own government, he thought it improper to communicate them; and in the name of the secretary of state, vouching, as he himself had done before, that messages from him were a sufficient foundation for them to proceed upon; but withal recurring to what he had also offered in his former message, namely, to communicate to their speaker, or a few of the house, such parts of the information he had received from the eastward as his majesty's service required.

But this not proving satisfactory to the house, all proceedings on this head were for some days at a stand; and the interval was filled with a continuation of the animated controversy, which in the preceding session had so highly exasperated the two branches of the legislature against each other, and which never had been either revived, or caused, if the governor and his employers had not preferred their own private views, to all the moral and equitable obligations of government.

When the assembly had sat nine days, and now remained in a sort of suspence, not choosing to inflame on one hand, and willing to hope the governor would find reasons to abate of his unreasonable stiffness on the other; came down a long message by way of answer to the assembly's paper of August 19; and, sufficiently exasperated thereby, that body,

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now at the point of dissolution, resolved to acquit themselves with as much spirit as if they had been immortal.

To the appendix the reader must be again referred for both pieces; they cannot, they ought not to be suppressed; they are too long to be here inserted entire, and to abridge them, at least that of the assembly, would be to maim one of the most lively pieces that liberty ever inspired or controversy produced. See appendix A.

Such a reference then to the subject matter of both as will just serve to keep us a sort of historical connection, is all the use to be made of them in this place.

The assembly had (very truly) charged the governor with contriving all possible methods of expence to exhaust their funds and distress their affairs; and had given in proof the exorbitant demand made upon them for cutting the road for the use of the army; an enterprize which they tell him they had undertaken at his instance, on a computation of its costing only eight hundred pounds. The governor in his reply said such a sum might have been mentioned as what it would cost in some men's private opinion; but not upon an estimate of the commissioners, nor what had been as such sent to him. Adding, "that though they had numbered the making the road among their meritorious acts, they had in effect done it out of fear of having proper representations made of their conduct at home, and of an armed force being used to oblige the inhabitants to do this necessary work; that he had persuaded the general to compound for one road instead of two, to contract even that to two-thirds of the breadth, and not to carry it so far by many miles as directed by the quarter-master-general; by which great savings were made to the province, and thanks instead of complaints were due to him, and rewards to the commissioners who had served the province in so hazardous a task so well; that he had never made such a demand as five thousand pounds, nor could it have been made by any one, because the accounts were not come in; and that now they were come in, the charge did not amount to three thousand

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pounds, which was not extravagant, considering the distance and expedition required in the work."

The assembly in their answer could not be so full in their own justification, and, consequently, in refuting the governor, as they might have been, because the necessary documents happened at that time to be mislaid. But when those documents were recovered, they did themselves ample justice, by reprinting the most material in an appendix to their minutes.

And among them was a letter from the said commissioners to the governor, which was communicated, together with one of the governor's own, (to the committee of assembly, at that extraordinary crisis, appointed to act on behalf of the whole, and other members then called in to their assistance) by his secretary; in which was the following express clause: "the expence of making the road thirty feet wide, and the principal pinches twenty, will make an expence of about eight hundred pounds." This letter was dated April 16th; and the committee having, in the name of the house, undertaken to defray the expence of both roads, the work went on accordingly. In another letter from the same commissioners, dated May 3d, it is said, "both roads will leave little of one thousand five hundred pounds, for it is impossible to tell what unexpected occurrences will arise," &c. the house, now sitting, resolved to persevere notwithstanding, and notwithstanding the loss of their bill, which made their compliance more difficult. Another estimate, dated fifteen days after this, signified, 'that the expence of opening both roads would be little under two thousand pounds.' Thus three estimates had been delivered in, each exceeding the other; and after all this, when one road had been dropt, and the other reduced in the manner alleged by the governor, the said commissioners did actually require five thousand pounds to be sent to them, in addition to what had been paid to them already, which in money and provisions was supposed to be near one thousand pounds. The committee of accounts had sat upon this requisition, had pronounced it to be extravagant, and had given it as their opinion, August 8th, 1755, "that in order to prevent

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imposition on the public, the said commissioners ought forthwith to attend the said committee with their accounts fairly stated, with proper vouchers for the same." From all which premises, the house had surely reason to assert they did, "whether they had not good reason to be surprised at this, and to suspect some extravagance in the management?" But they went farther still; they cited the original letter from the governor's six commissioners to him, and by him communicated to the house, August 9th, in which the five thousand pounds is specified, together with an intimation, that the people being much in want of money, the money could not be sent too soon. And they conclude this section with the following shrewd remark: 'The governor's judgment of our motives to engage in this work of opening the roads, seems to us a very uncharitable one, but we hope to find more equitable judgment elsewhere. We are obliged to him, however, for owning that we did engage in it at all. For as he is pleased to lay it down as a maxim that we are very wicked people; he has shewn in other instances, when we have done any good, that he thinks it no more injustice to us to deny the facts, than now to deny the goodness of our motives. He would, however, think himself ill used, if any part of his zeal in that affair was ascribed to the menaces directed to him; or to a view of accommodating by the new road the lands of the proprietaries' new purchase, and by that means increasing the value of their estate at our expence.'

Again: the governor was pleased to express himself in these extraordinary terms—'You have often mentioned what you have done to promote the success of his majesty's arms under general Braddock, and for the defence of the province, and say, you have letters from the late general, thanking you for your service; the truth of this I must beg leave to question, as the late general was too honest to say one thing to you, and another to the king's ministers. He might acknowledge the services of particular men, but how you can take those to yourselves as an assembly, when you had no hand in what was done, I am at a loss to know. I think it will not be doubted, but that had you in time opened

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the proper roads, raised men, and provided carriages and necessary provisions for the troops, as this was the only province able in the general's situation, to furnish him with them, we might now have been in peaceable possession of fort Duquesne.

To which astonishing, because groundless charge, the assembly, in the following full and effectual manner, replied: 'We own that we have often mentioned this; but we have been forced to it by the governor's asserting, as often, in his messages, contrary to known fact, that we had done nothing, and would do nothing of that kind. But it seems we take to ourselves the services of particular men, in which the governor says, we had no hand; and adds, "That had we in time opened the proper roads, raised men, and provided carriages, and necessary provisions for the troops, we might now have been in peaceable possession of fort Duquesne." We beg leave to ask the governor, has the body no share in what is done by its members? has the house no hand in what is done by its committees? has it no hand in what is done by virtue of its own resolves and orders? did we not, many weeks before the troops arrived, vote five thousand pounds for purchasing fresh victuals, and other necessaries for their use? did we not even borrow money on our own credit to purchase those provisions when the governor had rejected our bill? will the governor deny this, when he himself once charged it upon us as a crime? were not the provisions actually purchased by our committee, the full quantity required by the commissary, and carried by land to Virginia at our expence, even before they were wanted? did the army ever want provisions, till they had abandoned or destroyed them? are there not even now some scores of tons of it lying at fort Cumberland and Conegochieg? did the governor ever mention the opening of roads to us before the 16th of March, though the requisition was made to him by the quarter-master-general in January? did we not in a few days after send him up a bill to provide for the expence, which he refused? did not the governor proceed nevertheless to appoint commissioners, and engage labourers for opening

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the road, whom we afterwards agreed to pay out of the money we happened to have in our power? did the work ever stop a moment through any default of ours? was the road ever intended for the march of the troops to the Ohio? was it not merely to open a communication with this province, for the more convenient supplying them with provisions when they should be arrived there? did they wait in the least for this road? had they not as many men as they wanted, and many from this province? were they not more numerous than the enemy they went to oppose, even after the general had left near half his army fifty miles behind him? were not all the carriages they demanded, being one hundred and fifty, engaged, equipt, and sent forward in a few days after the demand, and all at Wills's creek many days before the army was ready to march? with what face then of probability can the governor undertake to say, "That had we in time opened the proper roads, raised men, and provided carriages, and necessary provisions for the troops, we might now have been in peaceable possession of fort Duquesne?"

'The governor is pleased to doubt our having such letters as we mentioned; we are therefore, in our own vindication, under a necessity of quoting to him some parts of them; and will shew him the originals whenever he shall please to require it. The general's secretary, in his letter of the tenth of May to one of our members (who, in pursuance of a resolve of the house for the service of the army, waited on the general at Frederic, and there occasionally undertook the furnishing of waggons, which he performed with the assistance of some other members of the committee, and for that, and other services to the troops, received the thanks of the house at his return) says, "You have done us great service in the execution of the business you have kindly undertaken; and indeed without it, I don't see how the service could have been carried on, as the expectations from Maryland have come to nothing." And again, in his letter of May the fourteenth, "The general orders me to acquaint you that he is greatly obliged to you, for the great care and readiness with which you have executed the business you undertook for

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him. At your request he will with pleasure discharge the servants that may have inlisted in the forces under his command, or any others for whom you may desire a discharge; and desires that you would, for that purpose, send him their names." And again, in his letter of May the twentieth, "I have only time to thank you once more, in the name of the general and every body concerned, for the service you have done, which has been conducted throughout with the greatest prudence and most generous spirit for the public service." The general's own letter, dated the twenty-ninth of May, mentions and acknowleges the provisions given by the Pennsylvania assembly" [though the governor will allow us to have had "no hand" in it], and says, "Your regard for his majesty's service, and assistance to the present expedition, deserve my sincerest thanks," &c. Colonel Dunbar writes, in his letter of May the thirteenth, concerning the present of refreshments, and carriage horses sent up for the subalterns, "I am desired by all the gentlemen, whom the committee have been so good as to think of in so genteel a manner, to return them their hearty thanks." And again, on the twenty-first of May, "Your kind present is now all arrived, and shall be equally divided to-morrow between sir Peter Halket's subalterns and mine, which I apprehend will be agreeable to the committee's intent. This I have made known to the officers of both regiments, who unanimously desire me to return their generous benefactors their most hearty thanks, to which be pleased to add mine," &c. And sir Peter Halket, in his of the twenty-third of May, says, "The officers of my regiment are most sensible of the favors conferred on the subalterns by your assembly, who have made them so well-timed, and so handsome a present. At their request and desire I return their thanks, and to the acknowlegments of the officers, beg leave to add mine, which you, I hope, will do me the favor for the whole to offer to the assembly, and to assure them, that we shall on every occasion do them the justice due for so seasonable and well-judged an act of generosity." There are more of the same kind, but these may suffice to shew that we had "some hand

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in what was done," and that we did not, as the governor supposes, deviate from the truth, when, in our just and necessary vindication against his groundless, cruel, and repeated charge, "that we had refused the proper, necessary, and timely assistance to an army sent to protect the colonies," we alleged, "that we had supplied that army plentifully with all they asked of us, and more than all, and had letters from the late general, and other principal officers, acknowleging our care, and thanking us cordially for our services." If the general ever wrote differently of us to the king's ministers, it must have been while he was under the first impressions given him by the governor to our disadvantage, and before he knew us; and we think with the governor, that if he had lived, he was too honest a man not to have retracted those mistaken accounts of us, and done us ample justice.'

What is still more unlucky for the governor, his secretary writing to the said commissioners with all the authority he could depute to him, April 25, 1755, makes use of these very words, 'What sir John St. Clair says is so far true, that had the army been ready now, and retarded by delays in matters undertaken by this province, all the mischiefs thence arising would have been justly chargeable on this province; but I am much mistaken, if they can, within a month from this date, get their artillery so far as your road.'

In the same letter he also says, 'Surely the flour will be delivered in time; or great blame may be laid with truth at the door of the commissioners.' Not the province; and, indeed, the flour was actually delivered so soon and so fast, that the general had not even provided storehouses and shelters sufficient to secure it against the weather, to which great quantities of it lay exposed in Maryland after the delivery of it there.

What spirit this gentleman (the governor) was possessed with, had been a question. The assembly would not allow him to have the spirit of government; he himself maintained, that if he had had enough of the spirit of submission, (terms generally held irreconcileable) his government would

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have been more agreeable to the province. But now it can be a question no longer.

The last period of the governor's message was the very quintessence of invective. 'In fine, gentlemen, said he, I must remind you, that in a former message you said you were a plain people that had no joy in disputation. But let your minutes be examined for fifteen years past, not to go higher, and in them will be found more artifice, more time and money spent in frivolous controversies, more unparalleled abuses of your governors, and more undutifulness to the crown, than in all the rest of his majesty's colonies put together. And while you continue in such a temper of mind, I have very little hopes of good, either for his majesty's service, or for the defence and protection of this unfortunate country.'

And in the reply of the assembly his own artillery was turned upon him as follows: 'The minutes are printed, and in many hands, who may judge, on examining them, whether any abuses of governors and undutifulness to the crown are to be found in them. Controversies indeed there are too many; but as our assemblies are yearly changing, while our proprietaries, during that term, have remained the same, and have probably given their governors the same instructions, we must leave others to guess from what root it is most likely that those controversies should continually spring. As to frivolous controversies, we never had so many of them as since our present governor's administration, and all raised by himself; and we may venture to say, that during that one year, scarce yet expired, there have been more "unparalleled abuses" of this people, and their representatives in assembly, than in all the years put together, since the settlement of the province.

'We are now to take our leave of the governor; and indeed, since he hopes no good from us, nor we from him, 'tis time we should be parted. If our constituents disapprove our conduct, a few days will give them an opportunity of changing us by a new election; and could the governor be as soon and as easily changed, Pennsylvania would, we appre-

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hend, deserve much less the character he gives it, of an unfortunate country.'

That, however, they might still continue to act on the same maxims, and continue to deserve the same confidence, they proceeded to contribute all they could to the advancement of the service; not only without the concurrence of the governor, but in spite of his endeavors to render them odious by all the means of prevention his wit, his malice, or his power could help him to. In what manner, the following unanimous resolutions will specify.

'That when application is made to this house by the governor, for something to be done at the request of another government, the letters and papers that are to be the foundation of our proceedings on such application, ought to be, as they have been by all preceding governors, laid before the house for their consideration.

'That a sight afforded to the speaker, or a few of the members, of papers remaining in the governor's hands, cannot be so satisfactory to the rest of the house, nor even to the speaker, and such members, as if those papers were laid before the house where they might receive several distinct readings, and be subject to repeated inspection and discussion till they were thoroughly understood; and all danger of mistakes and misconceptions through defect of attention, or of memory, in one or a few persons, effectually prevented.

'That great inaccuracies and want of exactness have been frequently observed by the house in the governor's manner of stating matters, laid before them in his messages; and therefore they cannot think such messages, without the papers therein referred to, are a sufficient foundation for the house to proceed upon, in an affair of moment, or that it would be prudent or safe so to do, either for themselves or their constituents.

'That though the governor may possibly have obtained orders not to lay the secretary of state's letters, in some cases, before the house, they humbly conceive and hope that letters from the neighbouring governments, in such cases as the present, cannot be included in those orders.

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'That when an immediate assistance to neighbouring colonies is required of us; to interrupt or prevent our deliberations, by refusing us a sight of the request, is a proceeding extremely improper and unseasonable.

'But a member of this house producing a letter to himself from the honorable Thomas Hutchinson, Esq. a person of great distinction and weight in the government of Massachusetts-bay, and a member of the council of that province, mentioning the application to this government for provisions, and the necessity of an immediate supply; and it appearing by the resolution of the council of war, held at the carrying place, on the twenty-fourth past (an abstract of which is communicated to the speaker, by the honorable Thomas Pownal, Esq. lieutenant-governor of the Jerseys) that the army will be in want of blankets and other clothing, suitable to the approaching season; and this house being willing to afford what assistance may be in their power, under their present unhappy circumstances of an exhausted treasury, and a total refusal by the governor of their bills for raising money, resolved,

'That a voluntary subscription of any sum or sums, not exceeding ten thousand pounds, which shall be paid by any persons into the hands of Isaac Norris, Evan Morgan, Joseph Fox, John Mifflin, Reese Meredith, and Samuel Smith of the city of Philadelphia, gentlemen, within two weeks after this date, towards the furnishing of provisions and blankets, or other warm clothing, to the troops now at or near Crown-point, on the frontiers of New York, will be of service to the crown, and acceptable to the public, and the subscribers ought to be thankfully reimbursed (with interest) by future assemblies, to whom it is accordingly by this house earnestly recommended.'

And this may be called the finishing measure of this every way public-spirited assembly; the governor did not choose to be in the way to receive their reply; and so the session and the controversy for this time ended together.

Into the hands of what number of readers, or readers of what capacities, dispositions, or principles, this treatise shall

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fall, is out of calculation the first, and decision the last; but whatever the number may be, or however they may happen to be principled, disposed, or endowed, the majority will by this time, probably, exclaim, enough of this governor! or, enough of this author!

But which ever should happen to be the case, pardon is asked for the necessity of proceeding a few stages farther; and patience ought to be required, to induce the reader to hold out to the end of so disagreeable a journey.

Though foiled, disgraced, and silenced this anti-Penn, this undertaker to subvert the building Penn had raised, was far from quitting the lists.

On the contrary, he lay in wait with impatience for a verification of his own predictions concerning the danger of the frontier, and the miseries the inhabitants were to sustain when the enemy should break in upon them.

When such should actually become the case, when the fugitives should on all sides, be driven either by the enemy or their own fears, or both, towards the capital; when every week should furnish some new tragedy; and rumour so practise upon credulity, that every single fact should by the help of echoes and re-echoes be multiplied into twenty; when the panic should become general, and the very distractions of the herd, and their incapacity to operate for themselves, should render them obnoxious to any imposition whatsoever then, he thought, and not altogether unjustly, their passions might be of service to him, though their reason could not; and the event will shew, that, provided he might attain his ends, he could be very indifferent about the means.

Factions he had found means to form, both in the city and the several counties; and tools and implements of all kinds, from the officious magistrate down to the prostitute writer, the whispering incendiary, and avowed desperado, he was surrounded with. The press he had made an outrageous use of; a cry he had raised; and in miniature the whole game of faction was here played by him with as little reserve, though not with as much success, as it is in greater affairs elsewhere.

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The current of elections, however, still continued to set against him: those who had the most interest at stake remained firm to the interest of their country; and now nothing remained but by the dint of artifice and clamor, to compel those to be subservient to his indirect purposes, if possible, whom he could not deprive of their country's confidence and favor.

This was the true state of Pennsylvania, when the new assembly, composed chiefly of the old members, took their seats.

On the 14th of October the house met of course, according to their constitution; but did not proceed to material, or at least, extraordinary business. The governor was not as yet sure of his crisis; and therefore, chose to feel their pulse first in manner following. His secretary being in conversation with the speaker of the assembly (the same who had served in that office for many years past) took occasion to communicate two letters to him concerning Indian affairs; and the speaker, asking, whether they were not to be laid before the house, the secretary replied, he had no such orders. The letters were of course returned; and the speaker made the house acquainted with this incident; adding, 'that he thought the said letters contained matters of great importance to the welfare of the province; but as he could not presume to charge his memory with the particulars, so as to lay them before the house for the foundation of their conduct, he could only mention the fact, and recommend it to the consideration of the house.' The house hereupon deputed two members to inform the governor, 'that having gone through the usual business done at the first sitting of an assembly, they were inclined to adjourn, unless he had any thing to lay before them, particularly in regard to Indian affairs, that might require their longer stay.' And the same members were farther directed to acquaint him with the time of their adjournment, in case the governor should in reply say, he had nothing to communicate. This concert upon one side, produced concert on the other. The governor replied as had been foreseen, 'that if he had had any busi-

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ness to lay before the house he should have done it before that time.' And being then made acquainted with the proposed time of adjournment, which was till the first of December, he said.....*It was very well.*

The house, therefore, having first resolved to continue the supplies granted by the former assembly to the Indians on their frontier, adjourned accordingly, having sat but four days.

Fifteen days of this adjournment were also suffered to elapse, as if all danger and apprehension were at an end. But then the governor, being armed at all points, summoned them to meet him, with all the circumstances of alarm and terror his imagination could furnish.

Intelligence (probably the same intelligence contained in the two letters communicated by his secretary to the speaker) that a party of French and Indians, to the number of fifteen hundred, as he was informed, had passed the Allegheny hills, and having penetrated as far as the Kittochtiny hills, within about eighty miles of Philadelphia, were encamped on the Susquehanna, was the business he had to impart to them; and from his manner of imparting it, he seemed more delighted than shocked with the recital. 'This invasion, said he, was what we had the greatest reason to believe would be the consequence of general Braddock's defeat, and the retreat of the regular troops.' Why did they retreat then from the actual seat of war? was the wild country on the Ohio better worth defending than Pennsylvania? was any projected acquisition of more importance to the public than the preservation of such a country? did not this very governor talk of the plenty of the province and its defenceless state, from time to time, almost in the style of invitation, as if he meant to bespeak the very event he was now expatiating upon? and is not he more to be upbraided for suffering those troops to be recalled, if he did no more, without making the strongest remonstrances against it, than the assembly who besought their protection; and if it should appear from his whole conduct, that he desired nothing more ardently than that such an event should happen; and that his princi-

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pal endeavour was, to improve it when it did happen to proprietary purposes, at the expence of the fortunes, liberties, and lives of the inhabitants, with what abhorrence must we reflect on the pains taken in this speech, to aggravate the calamitous state of the province, and to place it to the account of those, who had in a most signal manner deserved the thanks, not only of the Pennsylvanians, but also of all the friends and lovers of liberty and virtue distributed through the British empire?

'Had my hands been sufficiently strengthened (so he proceeded) I should have put this province into such a posture of defence, as might have prevented the mischiefs that have since happened.' A dose of venom apparently prepared and administered to poison the province; if the governor might have been their saviour, and was not, for want of proper powers, the assembly accused of having withheld them, were to be considered as public enemies. To be treated as such could not but follow. The populace are never so ripe for mischief as in times of most danger. A provincial dictator he wanted to be constituted; he thought this would be the surest way of carrying his point; and if the Pennsylvanians had taken so frantic a turn, they would not have been the first, who like the flock in the fable, had, in a fit of despair, taken a wolf for their shepherd.

But to return: 'That the Delaware and Shawanese Indians had been gained over by the French, under the ensnaring pretence of restoring them to their country,' constituted his next inflammatory. And then in order to magnify his own merits, he farther suggested, 'That he had sent the same intelligence, both to the king's ministers, together with a representation of the defenceless state of the province, and to the neighbouring governments, that the latter might be at once prepared to defend themselves and succour them; that the back inhabitants having upon this occasion, behaved themselves with uncommon spirit and activity, he had given commissions to such as were willing to take them, and encouragement to all to defend themselves, till the government was enabled to protect them; but that they had complained

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much of want of order and discipline, as well as of arms and ammunition; and he was without power, money, or means to form them into such regular bodies, as the exigency required, &c. that the designs of the enemy could only be conjectured from their motions and numbers; and that from those and the known circumstances of the province, it was reasonable to apprehend, they had something more in view, than barely cutting off and destroying some of the frontier settlements.' And for a conclusion he summed up his lords the proprietaries' will and pleasure, as follows:

'His majesty and the proprietaries having committed the people of this province to my charge and care, I have done, and still shall very readily do, every thing in my power to fulfil that important trust; and to that end, I think it my duty to call upon you to grant such supplies of money as his majesty's service, at this important and dangerous crisis, may require, and to prepare a bill for establishing a regular militia, exempting such as are conscientiously scrupulous of bearing arms, it being impossible, without such a law, though large sums of money should be raised, to prevent confusion and disorder, or conduct matters with any degree of regularity.

'As the enemy are now laying waste the country, and slaughtering the inhabitants, there is no time to be lost; I therefore think it necessary upon this occasion to inform you, that I am ready and willing to consent to a law for emitting any sum in paper-money the present service may require, if funds are established for sinking the same in five years; but I cannot think it consistent either with the powers of my commission, or the duty I owe the crown, to pass any bills of the same or a like tenor of those I have heretofore refused. And I hope you will not waste your time in offering me any such bills, as you must know from what has passed between me and the late assembly, and the information I now give you, it is not in my power to consent to; and I earnestly recommend it to you, to afford in time that assistance which your bleeding country stands so much in need of.'

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So that in case they would not wave their privileges in the manner prescribed, and protect the proprietary estate gratis, their country might bleed to death if it would; for they were not to be permitted to make use of their own money their own way, to save it.

One act of parliament[11] there is, and one only, which not only admits, that governors and deputy-governors may abuse their power and oppress the subject, but also affects to provide for the punishment of such oppressors. But then the word oppression is left so vague and indefinite, that no subject ever did, or can derive any benefit from it. Of all the several species of oppression, that, now practised by this man upon a whole province, was surely the most grievous; and as it required no common share of firmness to withstand it, so it required an equal degree of prudence to temper that firmness, in such a manner as might obviate all the misconstructions and misrepresentations, the withstanders had good reason to be sure would be put upon it.

Petitions from various quarters, and many of them of such an opposite tendency that they were irreconcileable with each other, poured in upon them. Some of the petitioners declaring themselves highly sensible of the zeal and diligence the assembly had shewn for the interest and welfare of their constituents, in contending for what ought in justice to be granted. Others pretending to pray, that the house would not keep up unnecessary disputes with the governor, nor by reason of their religious scruples longer neglect the defence of the province. Both requiring to have arms put into their hands. And others expressing their fervent desires that measures might be pursued consistent with their peaceable principles, and that they would continue humbly to confide in the protection of that almighty power, which had hitherto been as walls and bulwarks round about them.

The assembly received all with composure; and resolved to give all the satisfaction they could to all. To the points inforced by the governor they attended first; and to take off the panic which prevailed in the province, undertook to rec-

[11] 11 and 12 of Will. III. Cap. 12.

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tify the intelligence he had given, which could not but contribute greatly to the increase of it. In their reply to that part of his speech, for instance they told him, "they could not find by the letters and papers, he had been pleased to lay before them, that any such number of French and Indians were encamped on any part of the river Susquehanna."—What they admitted was, "that the back settlers were greatly alarmed and terrified; that cruelties had been committed on the inhabitants by the Delaware and Shawanese Indians, principally within the lands purchased by the proprietaries at Albany but the year before; that, perhaps, there might be a few of the French Mohawks among them; but this was not very clear; and that these were to be followed, as several of the accounts said, by a large number of Indians and French from fort Duquesne, with a design of dividing themselves into parties, in order to fall on the back settlements, of Pennsylvania and Virginia; and that the Indians still inclined to preserve their alliance with the province, seemed on the other hand, as much terrified, lest provoked with these hostilities, the English generally should revenge upon them the barbarities so committed by the invaders; that therefore great care and judgnent was, in their opinion requisite, in conducting their Indan affairs at that critical conjuncture; that as the Six Nations were in alliance with the crown of Great Britain, and numbers of them then acting with great fidelity and bravery under general Johnson, it seemed absolutely necessary on their part to make it their request to the governor to be informed, whether he knew of any disgust or injury the Delawares or Shawanese had ever received from Pennsylvania, and by what means their affections could be so alienated, as, not only to take up the hatchet against the said province, in breach of their dependence on the Six Nations, by whom they had been so long since subdued, but also of the friendly interviews and treaties, which they (the Pennsylvanians) had so repeatedly and very lately held both with them and the Six united Nations, both before and after the defection of part of the Shawanese, for whom they had particularly interposed their good offices, in procuring the liberty

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and sending home a number of their people, as it was apprehended, much to their satisfaction? as also, whether he had any knowledge of the inclination of the said Six Nations, or what part they had taken in relation to this cruel incursion, of the Delawares and Shawanese? they farther desired him to lay before them the Indian treaty held at Philadelphia in the September preceding; and declared themselves disposed and resolved to do every thing in their power, if it should appear they had sustained any injury at their hand, to regain their affections, rather than by any neglect or refusal of that justice which was due both to them and all their Indian allies, entail upon themselves and their posterity the calamities of a cruel Indian war, of which they apprehended there would otherwise be but too much danger."

And the governor, the same afternoon, sending down another message, importing, "that the enemy had fallen upon the settlements at a place called the Great Cove, and slaughtered or made prisoners such of the inhabitants as could not make their escape; that those adjoining were quitting their habitations and retreating inwards; and that he must therefore most earnestly press them to strengthen his hands and enable him speedily to draw forth the forces of the province, as any delay might be attended with the most fatal consequences;" they took the same into immediate consideration, and granted sixty thousand pounds to the king's use, to be struck in bills of credit, and sunk by a tax of six pence per pound, and ten shillings per head, yearly, for four years, laid on all the estates, real and personal, and taxables within the province; and on the fourth day afterwards sent it up to the governor for his assent, who, most unwarrantably and cruelly took advantage of the terrors which had seized upon the province, and which he himself had helped to accumulate, to reject it immediately; urging, that it was of the same kind with one he had formerly refused his assent to. And that it was not consistent either with his duty or his safety, to exceed, in matters of government, the powers of his commission, much less to do what his commission expressly prohibited." So that his own safety with regard to his bond and

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his commission were put into the scale against the safety of the province; and his duty to the proprietaries against his duty to the king and the public; which shews, in one word, that the whole bias of such government is eccentrical and unnatural.

His first duty was to concur with the assembly in whatever was necessary for the good and happy government of the province; the necessity of the grant in question even for the preservation of the province, had been the burden of every one of his speeches and messages. So pressing was the extremity, so imminent the danger, so terrifying the confusion, that the least delay on the side of the assembly had been represented as productive of the most fatal consequences; and yet the smallest proprietary consideration could induce the governor to act as if he did not believe one word he had said, or had the least concern about any other consideration whatsoever.

Whether the proprietaries ought to be taxed or not he would no longer dispute. "It was sufficient for him, he said, that they had given him no power in that case; he reproached them with having sat six days, and instead of strengthening his hands in that interval, with having sent him a message, for regaining the affections of the Indians then employed in laying waste the country, and butchering the inhabitants." But then he chose to forget entirely their application to him at their first sitting, for such intelligence as they might then have proceeded to business upon, and his express declaration, when they proposed an adjournment to him, "that he had no business to impart to them." He, nevertheless, added, "that, upon the repeated accounts he had received of the miserable situation of the back countries, his council had unanimously advised him to repair thither himself, to put things in the best order possible; and that he had hitherto declined it, that he might first know, what they had to propose on this occasion; but that having now received a bill from them which they well knew he could not give his consent to, he despaired of their doing any thing, so should immediately set off for the back counties; that if the people

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there had not all the assistance their present distresses made necessary, it would not be for want of inclination in him, but of power; that he should take a quorum of the council with him; and that, in case they should have any bills to propose that were consistent with the duties of his station, and the just rights of government, he should readily give his consent to them whenever they were brought to him."

This menace of immediately setting off for the back counties, was also another piece of practice on the fears of the assembly; but whatever effect it had without doors, it does not appear to have had much within; on the contrary, the assembly deputed two of their members, to know his determinate resolution, "whether he would or would not pass the bill?" and in the latter case, "to desire him to return it to the house." This message was verbal; and he evaded a present reply by saying, that if the house would send him a message in writing on that head, he would return them an answer; adding, "that he should not return the said bill."

A written message was hereupon taken into consideration; but before it could be perfected, another from the governor was brought down by the secretary, importing, "that the Indians living upon the Susquehanna, amounting in all to about three hundred fighting men, had applied to him, to put the hatchet into their hands in conjunction with the provincial forces, and to be furnished with arms, ammunition, provisions, and strong houses, for the protection of their old men, women, and children; that they had desired an explicit answer without farther delay, that they might either prepare to act with the province, or provide for their own security; that they had assured him this would be the last application they should make; and that in case it did not succeed, they should leave them as an infatuated people to the mercy of their enemies; that he could not but look upon this as one of the most important matters that ever came under their consideration; as it could not be supposed these Indians would expose themselves to the fury of an enemy so superior to themselves, unless they were vigorously supported; and as a refusal would unavoidably throw them into the arms

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of the French; that how fatal this must prove to the inhabitants of Pennsylvania and all the English colonies, they could not be ignorant; that he was ready and desirous to do any thing consistent with his duty to the crown for the protection and assistance, as well of those their allies, as of the said inhabitants; and that upon this important affair, and at the pressing instance of these Indians, he had put off his journey to the back settlements, although he conceived his presence among them at that time to be extremely necessary."

Thus the defeat of one expedient made way for the trial of another; and what the governor's set-off could not effect, was to be re-attempted by this put-off.

The assembly, however, were equally proof against both; and having adjusted a separate answer to each, sent them up the next day, November 11, by the same messengers.

In the first they signified, "that they had come together with the sincerest disposition to avoid, if possible, all disputes whatsoever with the governor; that they were deeply affected with the distresses of the frontier country, and determined to do every thing that could be expected of them for the public safety; that they had immediately voted a large sum for the king's service, and provided a fund for sinking the whole within five years as recommended by the governor; that, as the colony had been founded on maxims of peace, as they had so long maintained an uninterrupted friendship with the natives, and as the French had already gained the Delawares and[12] Shawanese to their interest, they thought it was but natural for them to enquire what cause of complaint had been administered to them, and to express their readiness to do them justice, before hostilities were returned and the breach grown wider; that for their better information, and without intending the least offence to the go-

[12] A pamphlet was written in Pennsylvania, and published in London, intitled, 'An enquiry into the causes of the alienation of the Delaware and Shawanese Indians from the British interest,' &c. wherein will be found what reason the assembly had to suspect those Indians might have been injuriously treated by the proprietaries and their agents.

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vernor, they had applied for the last treaty; that their message to this effect was sent upon the second day after their entering upon business; and that the governor had not till then vouchsafed them an answer." Coming then to the bill, "They suggested an apprehension, that the governor's immediate refusal of it, because it was of the same kind with one he had before refused, arose from his not having allowed himself time to consider of it;" adding, "that indeed all bills for raising money were so far of the same kind; but this differed greatly from every former bill which had been offered him; that all the amendments (of any consequence) which he had proposed to the last bill he had refused, save that for totally exempting the proprietary estate, had been admitted in this; that being as desirous as the governor to avoid any dispute on that head, they had even so framed the bill, as to submit it entirely to his majesty's royal determination, whether that estate had or had not a right to such exemption; that so much time was allowed by the bill, that the king's pleasure might possibly be known even before the first assessment; that it was farther provided, that if at any time during the continuance of the act, the crown should declare the said estate exempt as aforesaid, in such case the tax, though assessed, should not be levied, or if levied should be refunded, and replaced by an additional tax on the province; that they could not conceive any thing more fair and reasonable than this, or that the governor would or could start any objection to it: since the [13]words in his commission, which he was pleased to suppose contained an express prohibition of his passing such a bill, did not appear to them to have any such meaning; that if it was one of the just

13 'Provided always, that nothing herein contained, shall extend, or be construed to extend, to give you any power or authority to do, perform, act, suffer, acquiesce in, or consent or agree unto, any act, matter or thing whatsoever, by means or reason whereof, we, or either of us, or the heirs of us, or either of us, may be hurt, prejudiced, impeached, or incumbered, in our or their, or either of our or their royalties, jurisdictions, properties, estate, right, title or interest, of, in or to, the said province or counties, or any part of them.'

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rights of government, that the proprietary estate should not be taxed for the common defence of all estates in the province, those just rights were well understood in England, the proprietaries were on the spot to plead their own cause, or, if as remote as they (the assembly) were, might safely confide in his majesty's known wisdom and justice; that the equity of their being taxed, had appeared so plain even to their best friends there, that they had entered into a voluntary subscription to pay their supposed quota for them, in full assurance, that if they had been present, they would have done the same themselves, and would repay what should be so advanced for them; that if the proprietaries had any of this zeal for the service about them, this bill if passed, would give them a happy opportunity of manifesting it, by becoming solicitors to the king for his approbation, and refusing to petition for an exemption; and that since the right of exemption contended for on their behalf, could never be settled between the governor and assembly, the bill transferred the cause thither where only it could be decided."

The residue of this piece contains so full, so noble, and so affecting a recapitulation of the whole dispute, and sets the selfish conduct of the proprietaries and their deputy in so clear a light, that leave must be taken to insert it *verbatim*.

'Our assemblies have of late had so many supply bills, and of such different kinds, rejected on various pretences: some for not complying with obsolete occasional instructions (though other acts exactly of the same tenor had been past since those instructions, and received the royal assent;) some for being inconsistent with the supposed spirit of an act of parliament, when the act itself did not any way affect us, being made expressly for other colonies; some for being as the governor was pleased to say, "of an extraordinary nature," without informing us, wherein that extraordinary nature consisted; and others for disagreeing with new discovered meanings, and forced constructions of a clause in the proprietary commission; that we are now really at a loss to divine what bill can possibly pass. The proprietary in-

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structions are secrets to us; and we may spend much time, and much of the public money, in preparing and framing bills for supply, which, after all, must, from those instructions, prove abortive. If we are thus to be driven from bill to bill, without one solid reason afforded us; and can raise no money for the king's service, and relief or security of our country, till we fortunately hit on the only bill the governor is allowed to pass, or till we consent to make such as the governor or proprietaries direct us to make, we see little use of assemblies in this particular, and think we might as well leave it to the governor or proprietaries to make for us what supply laws they please, and save ourselves and the country the expence and trouble. All debates and all reasonings are vain, where proprietary instructions, just or unjust, right or wrong, must inviolably be observed. We have only to find out, if we can, what they are, and then submit and obey.—But surely the proprietaries conduct, whether, as fathers of their country, or subjects to their king, must appear extraordinary, when it is considered that they have not only formally refused to bear any part of our yearly heavy expences in cultivating and maintaining friendship with the Indians, though they reap such immense advantages by that friendship; but that they now, by their lieutenant, refuse to contribute any part towards resisting an invasion of the king's colony, committed to their care; or to submit their claim of exemption to the decision of their sovereign.

'In fine, we have the most sensible concern for the poor distressed inhabitants of the frontiers. We have taken every step in our power, consistent with the just rights of the freemen of Pennsylvania, for their relief, and we have reason to believe, that in the midst of their distresses they themselves do not wish us to go farther. *Those who would give up essential liberty, to purchase a little temporary safety, deserve neither liberty nor safety.* Such as were inclined to defend themselves, but unable to purchase arms and ammunition, have, as we are informed, been supplied with both, as far as arms could be procured, out of monies given by the last assembly for the king's use; and the large supply of mo-

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ney offered by this bill, might enable the governor to do every thing else that should be judged necessary for their further security, if he shall think fit to accept it. Whether he could, as he supposes, "if his hands had been properly strengthened, have put the province into such a posture of defence, as might have prevented the present mischiefs," seems to us uncertain; since late experience in our neighbouring colony of Virginia (which had every advantage for that purpose that could be desired) shows clearly, that it is next to impossible to guard effectually an extended frontier, settled by scattered single families at two or three miles distance, so as to secure them from the insiduous attacks of small parties of skulking murderers; but thus much is certain, that by refusing our bills from time to time, by which great sums were seasonably offered, he has rejected all the strength that money could afford him; and if his hands are still weak or unable, he ought only to blame himself, or those who have tied them.

'If the governor proceeds on his journey, and takes a quorum of his council with him, we hope, since he retains our bill, that it will be seriously and duly considered by them; and that the same regard for the public welfare which induced them unanimously to advise his intended journey, will induce them as unanimously to advise his assent. We agree therefore to his keeping the bill, earnesly requesting he would reconsider it attentively; and shall be ready at any time to meet him for the purpose of enacting it into a law.'

There is not in any volume, the sacred writings excepted, a passage to be found better worth the veneration of freemen, than this, 'those who would give up essential liberty, to purchase a little temporary safety, deserve neither liberty nor safety;' nor could a lesson of more utility have been laid at that crisis before the Pennsylvanians.

And as to the other message of the assembly which was sent up together with this, it was so solid and concise that it will not bear an abridgment.

'*May it please the Governor*,

'We have considered the governor's message of yesterday, relating to the application and pressing instances of the

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Indians, and are glad to find, that he is at length prevailed on to declare himself ready and desirous to do any thing, consistent with his duty to the crown, for the protection and assistance, as well of our allies, as of the inhabitants of this province in general." We never have, and we hope never shall, desire him to do any thing inconsistent with that duty. He has it now in his power to do what he may think the exigence requires, for the service of the crown, the protection of our allies, and of the inhabitants of the province. As captain-general, he has, by the royal charter, full authority to raise men; and the bill now in his hands, granting sixty thousand pounds, will enable him to pay the expences. We grant the money cheerfully, though the tax to sink it will be a heavy one; and we hope the bill will receive his assent immediately.'

With both, a bill was sent up, for supplying the western and northern Indians, friends and allies of Great Britain, with goods at more easy rates, supporting an agent, or agents among them, and preventing abuses in the Indian trade, to which the governor's assent was desired.

The governor's answer was, 'that he would take the same into consideration, and give it all the dispatch in his power.' But whatever he was pleased to say, both his head and his heart were at this time, taken up with other purposes; how just in themselves, how agreeable to his commission, and how salutary to the province, the sequel will most properly explain.

In the cause of this long and manifold controversy, the proceedings of parliament had been frequently referred to; and the rights of the house of commons as frequently urged by way of sanction for the claims of the assembly. And now the proprietary-party or governor's-men, (for wherever there is influence, there such creatures will always be found) being desirous also in their turn, to avail themselves of their reading, had recourse, it may be presumed, to the famous Kentish petition in the year 1701, as a proper precedent for them to proceed upon, in hectoring the assembly into such

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measures, as they could not be prevailed upon to adopt, by any other means.

Willing, however, to give their copy the air of an original, they chose to represent to their representatives, rather than to petition; and whereas the Kentish petition humbly implored, these came with a positive and immediate demand.

The mayor of Philadelphia took the lead in this turbulent transaction, and found one hundred and thirty-three inconsiderates, to follow him, under the name of several of the principal inhabitants of that city.

To the assembly it was presented, the very day after the two messages, just recited, were left with the governor, 'at a time when a bold and barbarous enemy has advanced within about one hundred miles of this metropolis, [the governor had said eighty] carrying murder and desolation along with them;' (thus pompously it began), 'we should think ourselves greatly wanting, &c. if we did not thus publicly join our names to the number of those who are requesting you to pass a law in order to put the province into a posture of defence,' &c.

A militia by law is the measure they afterwards contend for; and to shew how men differ from themselves according to circumstances and situations, the government-doctrine here was, 'that the proper and natural force of every country was its militia; without which no government could ever subsist itself, that no sums of money however great could answer the purposes of defence without such a law,' &c.

And it was in these very words, they had the temerity to inforce their point.

'We hope we shall always be enabled to preserve that respect to you, which we would willingly pay to those who are the faithful representatives of the freemen of this province. But, on the present occasion, you will forgive us, gentlemen, if we assume characters something higher than that of humble suitors, praying for the defence of our lives and properties, as a matter of grace and favor on your side; you will permit us to make a positive and immediate demand of it,

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as a matter of perfect and unalienable right on our own parts, both by the laws of God and man.'

As also, again afterwards.

'Upon the whole, gentlemen, we must be permitted to repeat our demand, that you will immediately frame and offer a law for the defence of the province, in such a manner as the present exigency requires. The time does not permit many hands to be put to this representation; but if numbers are necessary, we trust we shall neither want a sufficient number of hands nor hearts, to support and second us, till we finally obtain such a reasonable demand.'

To a committee it was referred, together with the address from certain of the people called Quakers, (recommending peaceable measures, and insinuating, that otherwise many as well as themselves would be under a necessity to suffer rather than to pay) and that concerning unnecessary disputes with the governor, as containing sundry matters of an extraordinary nature, for consideration; and in the mean time, the house plyed the governor with message after message, concerning the bill for regulating their Indian trade, and that for the supply. Both parties apparently wanted to gain time. It was equally dangerous for the assembly to provoke or parley with a multitude; and nothing but new matter from the frontier could give the governor any new advantage over them.

His answer to the assembly on the 14th of November was, 'That he had given the bill relating to the Indian trade to his clerk to transcribe;' and that, as to the other, 'He was then reconsidering it according to the request of the house; and when he came to any resolution upon it, the house might expect his final answer; but he did not know when that would be.'

At last, on the 17th, that is to say, after having been again quickened by another message, he sent down the latter with a paper of amendments, and a written message different both in matter and manner from, but altogether as illusory as the former. For, having maintained, as before, that he was not authorised by his commission to pass such a bill,

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and yet agreed with the assembly, that their dispute must, in the end, be determined by his majesty, he changed his objection from the thing to the mode, which he argued was unprecedented, and, in effect, impracticable: for, he said, 'The king could not properly give his assent to some parts of an act and reject others; and he then suggested another expedient, namely, for the house to adopt his own amendments sent down with the bill, by which the proprietary estate was entirely exempted; and to prepare and pass another bill, whereby the said estate was to be taxed in the same proportion with every other estate, only not by assessors chosen by the people, but by commissioners reciprocally chosen by himself and the assembly, and also named in the bill; together with a suspending clause, that the same should not take effect till it had received his majesty's approbation. All was closed with a sort of protestation, that nothing but an implicit confidence in his majesty's goodness and justice, that he would disapprove it if it was wrong, and his own most sincere and ardent desire of doing every thing in his power for the good and security of the people committed to his care, could have induced him to pass a law in any shape for taxing the said estate; and a predecision, that if they were equally sincere and equally affected with the distresses and miseries of their bleeding country, they could have no objection to this method of affording immediate succour and relief.'

What the doctrine was, established in the province, concerning suspending clauses, is already before the reader, and consequently the inference, in case the assembly had been weak enough to swallow the bait thus hung out for them.—But they were neither to be so amused by him, nor so terrified by his allies without doors, as either to forego the use of their understandings, or to act with their eyes open as if they had no eyes at all.

Having, therefore, sufficiently canvassed the matter, they first resolved, that they would adhere to their bill without admitting any of the governor's proposed amendments; and then, to make him sensible, that they also had some artillery to ply, as well as he, they farther resolved, 'That, in case

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the governor should persist in refusing his assent to their bill, which was so just and equitable in its nature, and so absolutely necessary at that time for the welfare of the British interest in America, after he should receive the answer of the house to his message then under consideration, they would make their appeal to the throne by remonstrance, humbly beseeching his majesty to cause their present governor to be removed, or take such other measures as might prevent the fatal consequences likely to ensue from his conduct.'

This vote was unanimous: and they farther took notice in their minutes of some dissatisfaction expressed at an Indian treaty held in the year 1753, by one of the chiefs of the Shawanese, and some promise made to him on the behalf of the proprietaries, which had not been complied with.

The governor, on the other hand, sent down the secretary with intelligence of another massacre committed by the Indians at a place called Tulpehocken; and in a written message farther observed on the supply bill, he had returned, 'that no money could be issued in virtue of it till the next January; before which the greatest part of the province might be laid waste, and the people destroyed or driven from their habitations; thence proceeded to demand an immediate supply of money; and concluded with a signification, that, should they enable him to raise money on the present occasion, a law founded on the act of parliament for punishing mutiny and desertion, would be absolutely necessary for the government of them, when not joined with his majesty's regular troops.

This was no sooner read than the house adjusted their answer to his former message, in which 'They maintained the propriety of their bill in point of mode as well as matter: that conditional or alternative clauses were far from being unprecedented; that the act was so constructed as to be complete either way; that, on the contrary, in pursuing the other method recommended, of passing two bills diametrically contradictory to each other, in the same breath, they

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might be justly charged with doing what would be not only unprecedented and absurd, but what would infallibly secure the end aimed at by the governor, to wit, exempting the proprietaries from taxation; that as to the expedient of assessing the proprietary estate by commissioners instead of assessors, they did not see the necessity of it; that the lords of parliament had, in the year 1692, proposed a like amendment to a money-bill, but finding it could not be carried, had dropped it then and never revived it since; that it was one of the most valuable rights of British subjects to have their money-bills accepted without amendments, a right not to be given up without destroying the constitution, and incurring greater and more lasting mischiefs than the grant of money can prevent; that of the twenty amendments offered by the governor to the fifty thousand pounds bill of the last assembly, the present assembly had admitted every one of them that was of any consequence into the present bill, merely for the sake of avoiding all dispute, except that of exempting the proprietary estate; and even that had been so modified as they imagined no objection could remain; that they found however, in this instance, how endless it was to admit such changes: seeing the governor now wanted to amend his own amendments; add to his own additions, and alter his own alterations; so that, though they should now accede to these, they could not be sure of being ever the nearer to a conclusion; that, as the passing the proposed separate bill was equally inconsistent with the governor's construction of the prohibitory clause in his commission, which he seemed now to have got over; so they hoped he would not, for the sake of a mere opinion, concerning mode and propriety, any longer refuse a bill of so great importance to his majesty's service, and even the proprietary estate, going daily to ruin, as well as the relief of the province; and that the same implicit confidence in his majesty's goodness, which induced him to pass such a bill in any shape, might also encourage him to believe, that any little impropriety, if any there was, would be graciously passed over; that, if there could be any

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doubts, which was most affected with the miseries of the province: they, who were most of them natives of it, and who had all of them their estates there, or he, a stranger among them; a consideration of the many bills they had offered in vain for its relief, and their earnest endeavours to give such great sums to that end, would solve them all; and that, upon the whole, the house adhered to their bill without amendments; because it was a money-bill; because the whole sum was granted to the crown, and to be paid out of the pockets of the subject; and because it was in their judgments a reasonable one. Lastly, they made it their request, that since, at such a time as that, disputes and contentions between different parts of the government could not but be extremely prejudicial both to the king's service and the welfare of the country, they might be thenceforth laid aside; and that the governor by passing this just and equitable bill would lay the foundation of such an agreement as might conduce to the general benefit of all concerned, and prevent the necessity they should otherwise be under, of making an immediate application and complaint against him to their sovereign.'

They accompanied this message with certain extracts from the journals of parliament, concerning the claims of the lords and the perseverance of the commons in rejecting them; they also, in a separate message, applied for information concerning the Shawanese affair before-mentioned; and in a farther message they apprized him, 'That their treasury was quite exhausted by the heavy expences lately incurred, and that they knew of no way of raising money so expeditiously as that proposed by the bill then before the governor. After which they subjoined the following expressions, "It is true, the money intended to be struck, may not be current before the thirty-first of December; but as that is not more than six weeks, there is no doubt but that labour, service, and any thing else that money can purchase among us, may be had on credit for so short a time, if the bill passes; and in consideration of the necessity of affording timely assistance to the distressed inhabitants in the back counties, we sincerely

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hope, and once more earnestly intreat, that the governor will no longer refuse or delay his assent to it."

At this time the house had a militia bill under their consideration, framed in compliance with the request of sundry petitions they had received, setting forth, 'that the petitioners were very willing to defend themselves and country, and desirous of being formed into regular bodies for that purpose, under proper officers, with legal authority:' the bill therefore was, as the title expressed, 'for the better ordering and regulating such as are willing and desirous of being united for military purposes.' It gave these the powers they desired, without compelling others who might be conscientiously against bearing arms. In which respect it conformed with the governor's particular recommendation often repeated.

This bill was sent up to him on the twenty-first; and, at the same time, the house called upon him for his result on the bills already before him.

Nothing is more true, than, that the more clearly and unanswerably you convince a man that he is in the wrong, the more you exasperate him against you; and never was any truth more strongly illustrated than this appears to have been in the person of this high and mighty governor. He could not forgive the assembly, because they had put him out of conceit with himself: and the poorer he found himself in arguments, the more strongly his passions excited him to make use of invectives. Invective became his only resource then; and the little power he had over himself, yet farther shewed how unfit he was to be a governor.

Having pronounced his proposal to the assembly to be a reasonable one, and declared himself no less astonished than grieved, that they should reject it; and, more especially, as their best argument for so doing was founded on a new and lofty claim of privilege, he endeavors both to prove the novelty and account for the assumption of it, by saying, 'It had never been heard of, till towards the close of Mr. Hamilton's administration, and that the assembly being then pressed on the subject of defence, first introduced and have

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since continued their claim: either wholly to avoid giving money for warlike purposes, or to arrogate unwarrantable powers to themselves.' To certain extracts from the minutes of the council, sent together with this message to them, he then referred for his proofs, that the governor's right to amend money-bills was never till then questioned; and after upbraiding them, in his way, for risking the rejection of so important an act, on account of the proprietary exemption, resolved all their reason for adhering to what he called, the indirect and perplexed method of their bill, into their sovereign pleasure to have it so. The same paragraph contained also some strange insinuations, 'That, not daring to trust their cause on its own bottom, they had chosen to blend both bills together, that they might have a better chance of having their chief governor and his estate subjected to their mercy.' And what with his implicit confidence, that the crown, in the common method, would neither pass that, or any other law for the sake of the greatest sums, if the proprietary claim to an exemption was just in itself; and what with his foresight of manifest inconveniences that might ensue from a total rejection thereof (which he himself had nevertheless persevered in doing). The next paragraph is hardly to be decyphered at all, except that in the close of it, he attempts to justify his own uncommon method, by saying, 'he had separated the two parts of the bill, that the province might be served either way; [which the assembly had been altogether as provident of before.] Any absurdity in this method he professed himself unable to discover; and the good-natured construction put upon it by them, of his intending to secure an infallible exemption to the proprietary estate thereby, he said he should leave among the rest of the groundless charges against him.' Condescend he did, however, to offer one amendment more, which, according to him, was to reconcile all: namely, by the addition of the following words to the exemption clause proposed to be added to the first bill, to wit: 'The estates of the honorable Thomas Penn and Richard Penn, esquires, excepted; which shall be taxed in the manner directed by a particular law, passed or

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to be passed for that purpose.' Not willing, however, to rest the controversy here, he proceeded to declare, 'that their extracts from the journals of parliament proved nothing to the purpose for which they were quoted; the constitution of England and the constitution of Pennsylvania being no way similar; that how many soever of his former amendments they had admitted, their leaving out the most material one, made the proposal of a separate bill a necessary expedient: so that they had no reason for bursting out into such a lofty strain of rhetoric concerning his amending his amendments, &c. That as to the number of money-bills he had rejected, they were but five in all, and all rejected for sufficient reasons, [such as we have seen!] and that, if they were disposed to relieve their country, they had many other ways, to which he should have no objection.' Proceeding then to the personal topic, and his being treated as a stranger, he takes a retrospect of their conduct, with an intent to shew, that they had treated Mr. Hamilton, though a native, with as many abuses as they had treated him; and here occurs a paragraph or two which must be inserted *verbatim*, viz.

'And here, was I inclined to go beyond my own times, I might begin with reminding you how contemptuously you treated the proprietary offer of four hundred pounds, for erecting a place of strength on the Ohio, together with an offer of one hundred pounds per annum towards its support; which offers were made at a time, when your concurrence would probably have prevented many of the calamities we now groan under.

'I might also observe, that when Mr. Hamilton first called upon you, pursuant to his majesty's orders, to grant such supplies as would enable him to draw forth the strength of the province, and to repel force by force, you would not admit that the French encroachments and fortifications on the Ohio were within our limits, or his majesty's dominions; thereby seeking an excuse to avoid doing what was required of you.'

He had also the disingenuity to mention the late defeat of his majesty's forces, in express terms as having happened,

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'for want of that timely support and assistance which it was in the power of the province to have afforded.' And having again declared, that he could not recede from his amendments, and expressed his satisfaction at their intended complaint against him, he concluded with the two following paragraphs, which are equally insidious, injurious, and unbecoming.

'Upon the whole, it appears clear to me, that you never intended that any of your bills should pass for raising money to defend the province; and this seems now to be placed beyond all dispute, since those people, under whose influence you are chiefly known to be, are said to have declared publicly to you, that they would sooner suffer than pay towards such purposes.

'However, I shall put one proof more, both of your sincerity and mine, in our professions of regard for the public, by offering to agree to any bill, in the present exigency, which it is consistent with my duty to pass, lest, before our present disputes can be brought to an issue, we should neither have a privilege to dispute about, nor a country to dispute in.'

Together with this message, the secretary also brought down another altogether as extraordinary, in which the governor acquaints the house, 'that he had considered their bill, for the better ordering and regulating such as were willing and desirous to be united for military purposes within that province; and though there were many things in it of a very extraordinary nature, and that he was convinced it would never answer the purpose of defending the province, even if it could be carried into execution, in any reasonable time, which he was afraid it could not, yet, to shew he was desirous of doing any thing that had even a chance of contributing to the safety of the province, he should consent to it in the shape they had sent it, as it would be entering into new disputes, should he amend it properly.'

And what is, perhaps, more extraordinary still, the governor on the same day, namely, Saturday, November 22, re-

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ceived some dispatches from the proprietaries, the contents of which he did not communicate to the house till the Monday following; by which time he was ready to unmask such a variety of batteries, as he thought would be sufficient, by their very noise alone, so to intimidate his antagonists at least, that they should not presume to make him such a return to his last message as they had done to his former.

The first was a report from his council, containing such a discussion of Indian affairs as was to be taken for a discharge in full of the Shawanese complaints mentioned in a message from the assembly, at their first sitting, in consequence of the governor's summons.

The second was a call upon them to provide for a swarm of French inhabitants banished out of Nova Scotia by governor Lawrence, and sent at a venture to be distributed through the rest of his majesty's colonies along the continent.

And the third not only notified the receipt of the proprietaries' dispatches above-mentioned, but farther specified, 'That, such was their care and regard for the people, that they had no sooner received the account he had sent them of general Braddock's defeat, than they sent him an order upon their receiver-general for five thousand pounds, as a free gift to the public, to be applied to such uses as that event might make necessary for the common security of the province; that he had directed the said receiver-general to have the money ready as soon as possible; and that it should be paid by such persons as should be appointed by act of assembly for the disposition of any sum they might think necessary for the defence of the province in that time of danger.' Two other clauses were also added: one importing, 'That this timely and generous instance of the proprietaries' care and anxiety for the inhabitants, could not fail making the most lasting impression upon the minds of every well-wisher to that country;' and the other, 'That the governor upon that occasion again recommended it to them to lay aside all disputes, and to grant such supplies in addition to what the proprietaries had given, as his majesty's service and the pressing exigencies of the province required.'

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That they might not, however, have any merit to plead on either of these heads, but might seem to be driven by force into every such measure as was thus recommended, on the very next day after this, and before it was possible for them to come properly to any resolutions at all; came again the mayor of Philadelphia, having now also prevailed with his corporation to join him and his prompters, with a remonstrance, in a style altogether dictatorial, 'reproaching them with losing their time in deliberations, while their fellow-subjects were exposed to slaughter, and in debates about privileges while they were deprived of the great first privilege of self-preservation, and requiring them to postpone all disputes, grant necessary supplies, and pass a reasonable law for establishing a militia; and in the close of it, recommending dispatch, as the people seemed already in a deplorable and desperate state, and they feared it would not be possible to preserve the peace and quiet of the city, or of the province itself, much longer.'

The house, notwithstanding, to be consistent in all things, called, in the first place, upon their committee for the answer they were directed to prepare to the governor's last invective, which was ready, and in substance as follows: to wit,

"That if they could be astonished at any thing which came from their governor, they should be astonished at his repeating charges and calumnies, groundless in themselves, and so repeatedly, fully, and publicly refuted; that instead of refuting them, therefore, they should only refer to their former refutations; that what he says concerning the risk of losing so important an act was mere sophistry and amusement; that, as they had before asserted, conditional or alternative clauses were common; that in the same act there was another, namely, that in case the four year tax did not produce sixty thousand pounds the defect should be supplied by an additional tax; and, if it exceeded, the overplus should be disposed by a future act; to which the governor had made no objection; that, notwithstanding all the dust he had attempted to raise, it was therefore clear to them, that the bill was entirely un-

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objectionable; that their mode was more proper than his, and as safe both for the bill, and the pretended rights of the proprietary; that his commission had no such prohibition as he affected to find in it; and that they could not, in a money-bill like this, admit of amendments not founded in reason, justice, or equity, but in the arbitrary pleasure of a governor, without betraying the trust reposed in them by their constituents, and giving up their just rights as free-born subjects of England; that by the charters their constitution was founded upon, in addition to the privileges therein specially named, they are moreover intitled to all other powers and privileges of an assembly, according to the rights of the free-born subjects of England, and as is usual in any of the king's plantations in America; that the free-born subjects of England had a right to grant their own money their own way, the governor did not deny, nor that the same was usual in other plantations; that therefore they had the same right, and should have had it if it had not been so specified in their charter; such free-born subjects, instead of losing any of their essential rights, by removing into the king's plantations, and extending the British dominions at the hazard of their lives and fortunes; being, on the contrary, indulged with particular privileges for their encouragement in so useful and meritorious an undertaking; that indeed their constitution was, in one respect, no way similar to that of England, namely, the king's having a natural connection with his people, the crown descending to his posterity, and his own power and security waxing and waning with the prosperity of his people; whereas plantation-governors were frequently transient persons, of broken fortunes, greedy of money, destitute of all concern for those they governed, often their enemies, and endeavoring not only to oppress but defame them, and thereby render them obnoxious to their sovereign, and odious to their fellow-subjects; that their present governor not only denied them the privileges of an English constitution, but had endeavored to introduce a French one, by reducing their assemblies to the insignificance to which the French parliaments had been reduced; had required them

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to defend their country, and then put it out of their power, unless they would first part with some of the essentials which made it worth defending, which was in fact reducing them to an Egyptian constitution: for, that as the Egyptians were to perish by famine unless they became servants to Pharaoh, so were they by the sword, unless they also became servants to an absolute lord, or as he was pleased to style himself, absolute proprietary; that all comparisons made by the governor of himself to his immediate predecessor would be to his own disadvantage, the differences between the former gentleman and his assemblies having been but small, in comparison with those then subsisting, and conducted by him with some tenderness to his country; that how much soever the people were at that time dissatisfied with some particulars in his administration, the present had given them abundant reason to regret the change; that as to the collusion charged upon them, in not intending any of the bills they had offered for the defence of their country should pass, they could with humble confidence, appeal to the searcher of all hearts, that their intentions perfectly corresponded with their actions; that, not to mention the unfairness of ascribing to a whole people the indiscretion of a few [those who had declared they would suffer rather than pay for military measures] the governor himself must own, they could not be under the influence he supposed, when they assured him that several more votes had been given for those measures since they were petitioned against, than before; that they were totally ignorant of the many other ways of raising money, to which the governor had no objection; as also, what that other bill might be, which he might think consistent with his duty to pass; that he thought it inconsistent with his duty to pass any bills contrary to his instructions from the proprietaries, which (like the instructions of the president and council of the north, mentioned by lord Coke, 4 inst. p. 246,) were to them impenetrable secrets; that, according to the same great lawyer's remark on governing by such instructions, *misera est servitus ubi jus est vagum aut incognitum;* that, therefore, it would be in vain for them to search for other ways, or

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frame other bills; and that here the matter must rest till his majesty should be graciously pleased to relieve them; since, with the governor, they could no otherwise hope to end their unhappy divisions, than by submitting to one part or the other of the miserable alternative mentioned by him; either not to have a privilege worth disputing about, or be deprived of a country to dispute it in."

But though this answer was, in every particular, conformable to the sense of the house, and was afterwards printed in the appendix to their proceedings, they declined making use of it; and that for the present reported by the committee was to the effect following: to wit, "that the bulk of the governor's long message consisted of groundless charges and calumnies, which having been repeatedly refuted, might be safely left to themselves; that though they had prepared a full answer to the rest, yet as there were now some hopes of an agreement with him in the money-bill, which was the principal business of the session, they submitted it to the house, whether it would not be more consistent with their prudence and moderation to suppress it; that there being, however, one or two new charges brought against the assemblies of that province, it might be proper to take some notice of them; that the first of these was, that they contemptuously treated the proprietary offer of four hundred pounds, for erecting a place of strength on the Ohio, and of one hundred pounds, per annum towards its support; that this contemptuous treatment was not specified, but might be explained, by a passage out of the *Brief State* [a proprietary pamphlet] where it is said, "the house refused this proposal a place in their minutes;" that the fact was, however, otherwise; that the said proposal appears in several pages there specified; and that nothing farther than what is there, could properly be made a part of those records; and the reason thereof is then assigned in the following narrative; which, for various reasons, deserves to be made a part of this discourse.

'The late governor Hamilton, after sending the message of the thirteenth of August, 1751, requested a private meeting with some of the members of that house, but without any authority from the assembly.

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'At this meeting governor Hamilton offered, on behalf of the proprietaries, four hundred pounds, towards building such a house upon or near the Ohio, (but not a syllable of maintaining or supporting it). The Indians were so far from pressing our engaging in it, that instructions were drawn by this government to require it of them, at a treaty held by G. Croghan, in May, 1751, and they evidently shewed themselves apprehensive, such an attempt might give umbrage to the French, and bring them down the Ohio with an armed force, to take possession of those lands. And about two years afterwards, these very Ohio Indians, at the treaty held at Carlisle, in October, 1753, say to our government, "I desire you would hear and take notice of what I am about to say; the governor of Virginia desired leave to build a strong house on Ohio, which came to the ears of the governor of Canada, and we suppose this caused him to invade our country." Treaty, page 8. The same sentiments appeared among the Six Nations, at the Albany treaty; "that the English and French were only contending which of them should have their lands." The reasoning made use of by the members at this private conference with the late governor was, that the land where they proposed to build it was claimed by the crown, and was very probably beyond the limits of Pennsylvania; that at least it would be beyond the reach of our laws, as appeared by the people already settled on Juniata, just beyond the North mountain; that this, instead of healing, might create irreconcileable breaches with our Indians, considering what sort of people would probably reside there; that the Indians had never heartily requested it, nor did it seem to be their interest so to do; and if they had requested it, as they were in subjection to the Six Nations, it would be necessary to have their assent; that this precipitate act would probably create a jealousy in the French, and give them some pretence of an infraction of the treaty of Utrecht on our part, and might finally engage the British nation in a war with France. These, and many other reasons, were urged at that private conference, as several of those members apprehended, to governor Hamilton's satisfaction. And it

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appears by George Croghan's journal, that those Indians neither did, nor did they think they could, give leave to build a house on the Ohio, without the express consent of the Six Nations; and accordingly they took two months to acquaint the Onondago council with this transaction, and then to send us word, which they never complied with.

'It appears further, by the assembly's message to governor Hamilton, on the twenry-first of August, 1751, taken from the informations of Conrad Weiser, and Andrew Montour, "that the request inserted in George Croghan's journal as made by the Indians at Ohio to this government, to erect a strong trading house in their country, as well as the danger 'tis there said they apprehended from the attempts of the French, was misunderstood, or misrepresented by the person, the governor confided in for the management of that treaty." But it may be unnecessary to pursue this enquiry into an affair wherein George Croghan thought himself unkindly, if not unjustly, sacrificed to private ends, as is well known to such as were acquainted with this affair, and appears in the letters and other papers sent by himself to some of the members of that assembly.'

Coming then to the other new charge, namely, that the assembly would not admit, that the French encroachments were within the king's dominions, they maintain that this charge is as ill-founded as the other; "For, say they, though the house never took upon them to ascertain the bounds of the king's dominions, they never directly or indirectly denied those encroachments to be within them." They then proceeded to examine the extracts from the council minutes sent by the governor, in proof that money-bills had been amended by former governors. They demonstrated in ten several instances, those extracts had not been fairly represented. And they concluded in these words: 'were all these to be deducted from the list, it would appear that there are but few instances in our journals of proper money-bills amended by the governor, and the amendments agreed to by the house; this is no more than was acknowledged by the preceding assembly, in their message of the twenty-ninth of September,

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where they say, that in a very few instances their predecessors might have waved that right on particular occasions, but had never given it up.'

Scarce had the house agreed with their committee in laying aside, for the present, the first of these answers, for the reasons assigned in the second, than certain inhabitants of Philadelphia, joined with others of the county of Chester, in all twenty-nine persons, thought themselves at liberty to assail the house in person with a petition, desiring, that the governor and the house would unite in the fear of God, &c. And as the minute taken of this strange incident (which followed the Philadelphia remonstrance in much such a manner as the legion-letter followed the Kentish petition before referred to) will serve at once to shew the ferment which then prevailed in the province, and yet how far the people in general were from desiring to be preserved against the incursions of the enemies, at the expence of their constitutional liberties; it is here inserted, to wit:

'The speaker told them, that it was well known this house was composed of members chosen without any solicitation on their parts, to be the representatives of the people, and guardians of their liberties; that the whole powers the house were invested with, were derived from the people themselves, and that as the house had hitherto, so they should still continue to discharge the high trust reposed in them to the best of their understanding and abilities; and then asked them, whether they desired that the house should give up any rights, which, in the opinion of the house, the people were justly intitled to? some of the petitioners, in behalf of the whole, answered, no; they were far from requiring any thing of that kind; all they wanted was, that some expedient might be fallen upon, if possible, to accommodate matters in such a manner, as that the province might be relieved from its present unhappy situation. To this the speaker replied, that nothing could be more agreeable to this house than a harmony between the two branches of the legislature; and that as the governor had yesterday evening sent down a message, intimating that the proprietaries are now disposed to contribute a

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sum of money towards the common security of the province, there was a great probability that all controversies on that head were at an end, and that some method would be speedily taken for relieving the province from its present difficulties.'

In effect, the governor having given his consent to the militia bill, and the house having made some immediate provision, for landing and relieving the miserable French exiles obtruded upon them from Nova Scotia, they proceeded to resolve, first, unanimously,

'That the right of granting supplies to the crown in this province, is alone in the representatives of the freemen met in assembly, being essential to an English constitution. And the limitation of all such grants, as to the matter, manner, measure, and time, is in them only.' And then,

'That in consideration of the governor's message of yesterday, by which it appears that the proprietaries have sent him an order on the receiver-general for five thousand pounds, to be paid into the hands of such persons as shall be appointed by act of assembly, and applied with such sums as the assembly should grant, to such uses as may be necessary for the common security of the province; and as it would not be reasonable or just, at this time, to tax the proprietary estate, in order to raise money therefrom, over and above the said grant from the proprietaries, the house will immediately proceed to form a new bill for granting a sum of money to the use of the crown, and therein omit the taxation of the said estate.'

Accordingly, such a bill was ordered the same day; and, in full confutation of all the injurious surmises that they did not so much as intend to save their country, prosecuted with so much zeal and alacrity, that it received the governor's assent the next day but one following.

Thus the two branches of the legislature were at last united in the great duty of making all contribute to the defence and preservation of all.

But though the storm was for the present over, some marks of recent turoulence still remained. The governor, though

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frequently called upon, could not be brought to pass the bill for regulating the Indian trade; the house, therefore, thought proper to press him with such a message, as should, by explaining the nature of the bill, not only indicate the nature of the abuses it was calculated to correct, but also oblige him, if possible, to account for his delay; and the message agreed upon was as follows, viz.

'*May it please the Governor*,

'As the bill for regulating the Indian trade, by employing sober and discreet persons to reside among those nations that remain friends to this province, for the purpose of furnishing them with the necessary goods in exchange for their peltry, at easy and reasonable rates, on account of the public, and thereby securing them to our interest, seems to us a bill of great importance at this juncture, we are very desirous of bringing it to a conclusion as soon as possible; and therefore once more earnestly request the governor would be pleased to let us know his sentiments upon it, and communicate the amendments he is pleased to say he thinks needful, that we may consider them. The bill has already lain before him above two weeks; and we fear, if something of the kind is not immediately gone into, we shall lose our few remaining Indians on Susquehanna; for as none of our traders now go among them, and they dare not come down to our settlements to buy what they want, for fear of being mistaken for enemies, there seems to be the greatest danger of their being necessarily driven into the arms of the French, to be provided with the means of subsistence.'

To which the governor was pleased to return the following evasive answer:

'*Gentlemen*,

'Since your bill for regulating the Indian trade has been before me, my time has been so much taken up with the variety of business that the circumstances of this province made necessary to be dispatched without delay, that I have not been able to give it the consideration a bill of that nature requires, nor to examine the laws of the neighbouring provinces upon that subject. But as the Indian trade is now at a stand, I

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cannot conceive that it will be at all dangerous to the public to defer the completing of this act till the next sitting; especially as it will be necessary to call in and confine our friendly Indians to certain limits, to prevent their being mistaken for, and killed as enemies, where they must be subsisted. This will hinder them from hunting, so that they will have no skins to trade with.'

And now, after having so often treated the assembly as a body fitter to be prescribed to, than consulted with, he took it into his head to apply to them for advice; on what account it is reasonable his own message should explain.

'*Gentlemen*,

'General Shirley, pursuant to his majesty's orders for that purpose, has requested me to meet him at New York, in a congress he has there appointed, as you will observe by the extract of a letter from him upon that subject, which the secretary will lay before you. At that meeting, business of the greatest consequence to his majesty's service and the safety of these colonies will be considered and concluded, and the success of the next year's operations may in a great measure depend on the timely resolutions of that council.

'I have lately received such intelligence as to the state of Indian affairs, as will make it necessary for the colonies to join in some general treaty with those people, as well to the southward as the northward, which can no way so well be resolved on as at the congress now already met.

'And on the other hand, the late incursions of the enemy, and the necessity there is of putting this province into a posture of defence, as well as carrying into execution the several matters now in agitation, call for my presence, and the authority of the government. Under these difficulties I find myself at a loss which service to prefer, and desire you will give me your sentiments on this momentous and pressing occasion.'

Now this congress was in fact, to be a council of war; and the instructions the general had received, according to his own account, was to summon such of the governors on the continent, as far westward as Virginia, as could, to attend it.

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Governor Morris, therefore, would have been under no great difficulty on this head, if the circumstances of his province had been really such as he had been always fond of setting them forth.

But his purpose was to go; and he wanted the countenance of the assembly to concur with his inclinations, that he might not be charged with inconsistency, either by stimulating them with false alarms, or deserting them in real dangers.

The assembly, however, chose to leave the difficulty upon himself, as he alone was acquainted with the necessity of his attending the said congress; but then they left him at no loss concerning their opinion; for they admitted the present circumstances did call strongly for his presence at home, and for the whole authority of government; and they also offered to be at the expence of sending commissioners to New York, to supply his place, either in concluding on the matters proposed by the crown, or concerting measures for a general treaty with the Indians. 'For, said they, as this province always has been, so we still are ready to join with the neighbouring colonies in any treaty with the Indians, that may conduce to the general advantage of the British interest, as well as, at our own charge, to make such as tend particularly to our own peace and security.'

A noble declaration! what is alone sufficient to silence all the invectives which have been so liberally bestowed on this province! and what, in modern proprietary documents and the speeches and messages of deputy-governors, it would be very hard to match.

Of the stress in this message, however, laid on the present state of Indian affairs, the house took the advantage to recollect what had passed between them and the governor in relation to the Shawanese complaint; and with an equal regard to truth and candor, took occasion in a message to the governor, to express themselves upon it as follows, viz.

'*May it please the Governor*,

'We have considered the report of the committee of the governor's council, to which he is pleased to refer us for an answer to our enquiry, relating to a claim of the Shawanese

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Indians, on the lands near Conedoguinet. We are far from desiring to justify those Indians in their late outrages and murders, committed against the people of this province, in violation of the most solemn treaties. We believe that great care has generally been taken to do the Indians justice by the proprietaries in the purchases made of them, and in all our other public transactions with them; and as they have not the same ideas of legal property in lands that we have, and sometimes think they have right, when in law they have none, but yet are cheaply satisfied for their supposed as well as real rights, we think our proprietaries have done wisely, not only to purchase their lands, but to "purchase them more than once," as the governor says they have done, rather than have any difference with them on that head, or give any handle to the enemies of the province to exasperate those people against us. It appears indeed, from the report, that they could have but a slender foundation for a claim of satisfaction for those lands; we are however convinced, by original minutes taken by one of the commissioners at the treaty of Carlisle, now lying before us, that the Shawanese chiefs mentioned that claim of theirs to the lands in question at that time, and were promised that the matter should be laid before the proprietaries. It was after the public general business of the treaty was over, and was not inserted in the printed account of the treaty, perhaps because it was thought to relate more particularly to the proprietary than to the province; and one of the commissioners being himself concerned in the proprietaries affairs, there was reason to believe he would take care to get it settled; and doubtless he would have done so, had he not, as appears by the report, entirely forgot the whole transaction. We are sorry it was not done, though probably the instigations, present situation, and power of the French, might have been sufficient nevertheless to have engaged those Indians in the war against us.'

They also took into consideration the governor's answers to their several messages in relation to the bill for regulating the Indian trade; and resolved thereon, "That it was their opinion, the governor had evaded giving any answer, or of-

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fering any amendments to it, that it might be transcribed and sent over to the proprietaries for their opinion or assent; that the said bill was of great importance in the present critical situation of affairs; that the delay or refusal of entering into the consideration thereof at that time, might be attended with very ill consequences; and that those consequences would not lie at their door."

And having before resolved to adjourn till the first of March ensuing, they moreover took upon them to provide for the subsistence of certain friendly Indians, settled near their frontiers, in the mean while.

Nor was this all: for the incidents of the session having shewn, that it was high time for the assembly to assert their own authority, as far forth at least, as the factions and intrigues of the province at that time subsisting would permit, they called for the report of their committee appointed to sit on the several irregular and improper applications which had been made to them during the session; and having duly considered it, ordered it to be entered on the minutes of the house.

Every body knows, that the reports of committees can consist of opinions only; and these gentlemen give it as theirs, "that though it was the undoubted right of the freemen of the province, not only to petition, but even to advise their representatives on suitable occasions, yet all applications whatever to the house, ought to be respectful, decent, pertinent, and founded in truth."

"That the petition of Moore and his thirty-five followers, concerning unnecessary disputes with the governor, when no disputes had been begun; and insinuating, that the house had neglected the security of the province from conscientious scruples, was founded on mistakes and misapprehensions of facts and circumstances." [They might have said much more if they had thought proper.]

"That the petition intitled, an address of certain people called Quakers in behalf of themselves and others, (signed by Anthony Morris and twenty-two others) so far as it engaged for any more than themselves, and insinuated

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they would be under a necessity of suffering rather than paying for other than peaceable measures, had notwithstanding the decency of its language, assumed a greater right than they were invested with; and, forasmuch as the said petitioners had not duly considered former precedents, especially the grant of two thousand pounds to the crown in the year 1711, was an unadvised and indiscreet application to the house at that time."

"That the representation from the mayor of Philadelphia, and one hundred and thirty-three others, said to be of the principal inhabitants, but in reality a great part of them not freeholders, many of them strangers and obscure persons, and some of them under age, as it charged the house with not having a proper concern for the lives of the inhabitants, and dictated, in a haughty peremptory manner, to the representative body of the whole people, what laws to make, and threatened to force a compliance, &c. if its commands were not obeyed, was a paper extremely presuming, indecent, insolent, and improper; and that the said mayor, by becoming a promoter and ringleader of such an insult on that part of the government, and by his authority, arts, and influence, drawing in so many indiscreet or unwary persons to be partakers with him therein, had exceedingly misbehaved himself, and failed greatly in the duty of his station." Expressions equally applicable to the governor himself as chief magistrate; if the mayor in all this, only acted as a tool of his.

And upon the whole, "that the said paper ought to be rejected."

Thus ended this memorable session, on the 3d of December; and that day two months, instead of that day three months, which was the time prefixed by their own adjournment, the governor, having, in that interval, left his province, in order to attend the military congress at New York, notwithstanding the preventives thrown as above by the assembly in his way, thought fit to convene them again; and by the medium of a written message in the usual form, told them, "that he had called them together, to consider of the

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plan of operations, concerted in the late council of war held at that place for the security of his majesty's dominions on the continent; that he had directed the said plan to be laid before them, under a recommendation of secresy, that no part of it might be suffered to transpire; that the many encroachments of the French, &c. sufficiently shewed what they had farther to expect, if they did not by an united, vigorous, and steady exertion of their strength, dislodge and confine them within their own just bounds; that he was persuaded this would be found the best way of providing for their own security; and that therefore, he must recommend it to them to grant him such supplies, as might enable him to furnish what was expected from that province towards the general service; that they must be sensible their success would very much depend on their being early in motion; and that he made no doubt, they would use the greatest diligence and dispatch in whatever measures their zeal for the public cause might induce them to take upon the present occasion; that every thing possible had been done for the security of the province; that a chain of forts and block-houses, extending from the river Delaware along the Kittatinny hills [where he had formerly said the 1500 French and Indians had taken post in their way to Philadelphia] to the Maryland-line, was then almost complete; that they were placed at the most important passes, at convenient distances, and were all garrisoned with detachments in the pay of the province, and he believed, in case the officers and men posted in them did their duty, they would prove a sufficient protection against such parties as had hitherto appeared on their borders; that he had directed the minutes of the several conferences held with the Indians, and other papers relating to Indian affairs (by which it appeared that the bulk of the Indians living on the Susquehanna, were not only in the French interest, but deaf to all the instances of the Six Nations thereon) to be laid before them; that the heads of those nations had been convened by the timely care of general Shirley, and were then met in council to treat on those and other matters; that

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he was informed, they were so much displeased with the conduct of the Delawares and Shawanese that they seemed inclinable to take up the hatchet against them; and that he hoped the warmth with which general Shirley had recommended this matter to them, would induce them to act vigorously on this occasion."

Connection is not to be expected in this gentleman's proceedings; his congress we have already seen converted into a council of war; instead of a general treaty with the Indians he brings back a plan of military operations; and while the levies were actually making of the sixty thousand pounds, just given, for the defence of the province, he calls upon them for a supply, towards an offensive war.

By the plan settled among the governors at their late council, which is now in print, the colonies were to raise ten thousand two hundred and fifty men, to be employed in two bodies against the French settlements on the lake Ontario, and Crown-point; and of these fifteen hundred were to be supplied by Pennsylvania.

The governor, however, did not think it expedient to push this demand in the cavalier manner he had hitherto practised; probably convinced that it was what the province neither would or could comply with; and that consequently he should only draw down so much the more odium on himself.

Besides, the assembly was scarce met, before a circumstance occurred, which, though of an almost private nature, served to evince the truth of what has been just insinuated.

The several recruiting parties distributed through the province by the order of general Shirley, had renewed the old practice of enlisting purchased servants; the persons thus deprived of their property brought their complaints before the assembly; the assembly not only received the petitioners favorably, but also espoused their cause in the strongest terms to the governor; and as their address on this occasion, contains such a state both of the province and its conduct, as will serve to make the reader equally acquainted with both, the most material paragraphs are here adjoined.

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'We presume that no one colony on the continent has afforded more free recruits to the king's forces than Pennsylvania; men have been raised here in great numbers for Shirley's and Pepperell's regiments, for Halket's and Dunbar's, for the New York and Carolina independent companies, for Nova Scotia, and even for the West India islands. By this, and the necessity we are under of keeping up a large body of men to defend our own extensive frontiers, we are drained of our hired laborers; and as this province has but few slaves, we are now obliged to depend principally upon our servants to assist us in tilling our lands. If these are taken from us, we are at a loss to conceive how the provisions that may be expected out of this province another year, for the support of the king's armies, are to be raised.

'We conceive that this province could not possibly have furnished the great numbers of men and quantity of provisions it has done for the king's service, had it not been for our constant practice of importing and purchasing servants to assist us in our labour. Many of these, when they become free, settle among us, raise families, add to the number of people, and cultivate more land; and many others who do not so settle, are ready and fit to take arms when the crown calls for soldiers. But if the possession of a bought servant, after purchase made, is thus rendered precarious, and he may at any time be taken away from his master at the pleasure of a recruiting officer, perhaps when most wanted, in the midst of harvest or of seed time, or in any other hurry of business, when another cannot be provided to supply his place, the purchase, and of course the importation, of servants will be discouraged, and the people driven to the necessity of providing themselves with negro slaves, as the property in them and their service seems at present more secure. Thus the growth of the country by increase of white inhabitants will be prevented, the province weakened rather than strengthened (as every slave may be reckoned a domestic enemy) one great and constant source of recruits be in a great measure cut off, and Pennsylvania soon be un-

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able to afford more men for the king's service, than the slave colonies now do.'

They also accompanied their address with an extract of a letter from general Shirley to colonel Dunbar, in which he declares himself convinced, that the inlisting of apprentices and indented servants would greatly disserve his majesty's interest, as well as be in most cases grievous to the subject, and in the strongest manner recommends it to him to avoid doing it.

Even the governor himself in his answer acknowleged the fact; admitted it to be a great hardship, and an unequal burden upon the inhabitants of the province; but, instead of issuing his proclamation, strictly charging and commanding all officers civil and military to be aiding and assisting to the inhabitants, in securing or recovering their servants, when any attempt should be made to force them away, as required by the assembly, told them the courts were open, and that the injured might there sue out his remedy by due course of law.

He also signified, that general Shirley had now altered his opinion, and issued orders different from those he had before given to colonel Dunbar. And in effect, a letter from the said general in answer to one of the governor's, was soon after communicated to the assembly, in which he pleads the necessities of the service for a continuance of the practice; and in justification of it, cites the authority of his own government, "where it was common, he said, to impress both indented servants and others for garrisoning the frontier towns, where they often remained several years."

And his thus renouncing his former conviction, is so much the more remarkable, because the province had recently made his troops a voluntary present of warm waistcoats, stockings, and mittens; and in his letter of acknowlegment (dated but five days before that to the governor) to the assembly, addressed to one of the members, he expresses himself as follows:

'I am now, sir, to acquaint you, that I have ordered a distribution of clothing, and to desire the favor of you to

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make my acknowlegments to the assembly for this second instance of their public spirit and zeal for his majesty's service, and the general good of these colonies, given by them in the expedition against Crown-point.

'I cannot but hope that so laudable an example will inspire the other colonies with the like spirit, so necessary at this critical conjuncture for putting a stop to the invasions and devastations of the French and their Indians within our borders, and placing the British northern colonies in a state of security against the attempts which, from the armament sent the last year from France, and their known designs, we have the utmost reason to expect they will push this year; and that it will continue to animate the government of Pennsylvania in the common cause, as it hath hitherto done, so highly to their advantage.

'Be pleased likewise, to assure them, sir, that I shall not be wanting in making a just representation to his majesty of these marks of their zeal for the service of their king and country, and doing every thing in my power for the service of the province.'

It is indeed remarkable of Pennsylvania, that though represented and treated by its enemies, as if it was the barren fig-tree, applications were continually made to it on all sides, as if it was capable of furnishing all demands and incapable of refusing any.

His majesty having graciously ordered a considerable present to be sent to New York for the Six Nations; and sir Charles Hardy, governor of that province, being soon to hold a meeting with them, in order to the distribution, Pennsylvania was called upon to follow the example of New York in making some addition to it: and governor Morris was prevailed upon by governor Hardy to make the demand accordingly.

Nor was the assembly averse to it: the province had agents at that very time with sir William Johnson, to sound the disposition of those nations towards them, and as sir Charles Hardy's meeting was not to take place till towards the end of March, and the governor's message was dated

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February 16, they apprehended that no inconveniencies could ensue from their not giving a determinate answer till the return of those agents, which was very soon expected.

And in the mean time, as the governor could not mention Indian affairs, to them, without putting them in mind of the bill, which had been so long in his hands for regulating the Indian trade, they again called upon him to take it into consideration.

They had now sat a full month; and had received a message from him, recommending a stop to be put to the exportation of provisions from some ill-grounded apprehensions of a scarcity, which they had under consideration; they were also deeply engaged in a bill for the better regulation of their forces, and they had sent up another for continuing the excise, when the governor was pleased to return both that and the Indian trade bill, with several proposed amendments, and a notice, "That his majesty's service requiring his presence at Newcastle, he intended to set out for that place on the morrow, or next day after."

To redeem time, therefore, the said amendments were immediately discussed, and upon the question rejected; of which they apprized him in the following brief and sensible manner.

'*May it please the Governor*,

'The excise bill now offered the governor for his assent, being free of all objections as to royal instructions, or act of parliament, and the same that has heretofore repeatedly received the royal assent; and no reason appearing to the house why the change should be made that is proposed by the governor's amendment, they therefore unanimously adhere to the bill, and desire it may receive his assent as it now stands.

'The bill for regulating the Indian trade, being an imitation of the law for the same purpose, found so beneficial by long practice and experience in the province of the Massachusetts, the house do also adhere to that bill as it stands; and request the governor would be pleased to reconsider his amendments.'

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Of this the governor took no notice, but proceeded to Newcastle, as he had before intimated he would; and the assembly having at last conquered the difficulties raised among themselves, and passed their bill for regulating the officers and soldiers in the service and pay of the province, adjourned to the 5th of April then next ensuing.

As this adjournment was so very short, the members were permitted to have the full benefit of it; but when they met again new troubles arose; not to say were prepared for them.

Sir William Johnson's treaty with the Six Nations was laid before them; and they found the governor strongly determined to involve the province in an Indian war with the Delawares and Shawanese; which a very considerable part of the province, from principles of prudence, as well as scruples of conscience, most earnestly desired to avoid.

The affair was soon taken into consideration; and the house appeared to be far from unanimous upon it: some from the papers laid before them, finding reason to believe, that an accommodation might still be effected, were for addressing the governor to suspend his purpose for some time longer; and others had influence enough to postpone the debate, and thereby prevent their coming to any conclusion upon the question at all.

The issues of war and peace, they might probably argue, were solely in the executive; and consequently the executive was alone to be answerable for the uses made of them.

But whatever their arguments were, whatever effect they had within doors, the same difference of opinion still remained without. On one hand, some of the people called Quakers, residing in the city of Philadelphia, on behalf of themselves and many others, presented petitions both to the governor and the house, full of exhortations to pursue pacific measures with these savages, and to preserve the province, if possible, from the calamities of an Indian war; and, on the other, the governor informed the house, that a number of people from the back counties had resolved on a meeting, in order to proceed in a body to make some demands of the legislature then sitting; and, after having made a merit of

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his information, added, "that, by the advice of the council, he should give immediate orders to the provincial and other magistrates, to use their utmost endeavors to prevent the mischiefs which might attend so extraordinary a procedure."

The house, however, preserved their equanimity on this occasion; surprize they did express, that, having in all respects demonstrated so much care and concern for the security of the province, any of the people should meditate mischief against them; but, instead of discovering any fear, they announced the laws of the province against rioters, and accompanied their thanks to the governor for his intelligence, with a request, that he would lay before them what informations he had received concerning their views or designs, or wherein they had apprehended themselves to be either neglected or aggrieved: which request he never thought fit to comply with.

It may indeed be collected, that these insurgents were as strenuous for war, as the quietists were for peace; and that the governor took advantage of this very incident to declare war against the Delawares and Shawanese, and offer rewards for taking prisoners and scalps, which he did immediately thereon. He also gave notice, in form, of the same to the assembly, urging the many and great cruelties on his majesty's subjects within the province, as the cause; and concluded his message in the following terms:

'But as great part of the sixty thousand pounds is already expended, and what remains will very soon be consumed in maintaining the troops posted on the frontiers, and other necessary services, I recommend it to you, gentlemen, to grant such further supplies, as may be necessary to carry on the war with vigor, upon the success of which the future peace and safety of the inhabitants of this province will very much depend.'

The same day he also informed them, "that the Indians which had so long subsisted on the bounty of the province (instead of taking part in this new war) were on the point of removing with their families (he was fearful, on some discontent, though he knew of no reason,) into the country of

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the Six Nations; and had demanded of him the necessary conveyance and passports." And he added, "that if they could not be prevailed on to act with the English, which he had directed the interpreter to endeavour, it would be necessary to reward the two partizans amongst them (Scarroyady and Montour) to their satisfaction for their trouble and service, to send the others away well satisfied, and to give those that should continue good encouragement."

The house, in answer, signified in substance, "that their late supply of sixty thousand pounds had fully enabled the governor, and the commissioners who were joined with him for the disposition of it, to do all that was desired, or necessary to be done; that if great part of that supply, so lately granted, was already expended, and the rest would soon be so, they knew of no remedy; but that as the assessment for sinking the bills of credit issued in pursuance of the said act had not as yet been laid or levied, as a great part of the money was still in hand, and as they were soon to meet again upon the adjournment, then so necessary to their private affairs, having waited long for the governor's answer to their bills, they could not think it would be of use at that time to lay an additional load of taxes on the inhabitants; they concluded with an earnest recommendation of the bill for regulating the Indian trade, as a bill of great importance for conciliating the minds of the Indians yet unfixed in their resolutions, and confirming those already in alliance with them, by supplying them with such goods and other things they might have occasion for, on the easiest terms, at the charge and under the inspection of the government." And, in a separate message, sent at the same time, they farther gave him to understand, "that, having seriously deliberated on his message for putting a stop to the exportation of provisions, ever since they had received it, and made a full enquiry into the circumstances of the country, they had reason to hope that, under the common course of God's good providence, no considerable danger or inconvenience could arise from continuing to leave their ports still open till their next

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meeting; as also, that they proposed to adjourn till the 24th of the month next ensuing."

The return to this was, that the governor 'had no objection to the proposed time of adjournment; that he thought, with the house, there was no immediate necessity for laying an embargo on provisions; that he should lay before the commissioners the affair of the Indians now in town, and endeavour to send them away well satisfied; that he expected the house would have made some preparations for executing the plan of operations for the ensuing campaign, but as they had not, it must lie upon them; that as to the Indian trade, and excise bills, he should consider them against the next meeting; and lastly, that he thought it proper to mention to the house by their messengers, that although he had had more burdens laid upon him than any of his predecessors in the same time, yet he had received less from the house than any of them.'

Lastly, the house taking into consideration what the governor had said relating to their not having made preparations for executing the plan of operations for the ensuing campaign, resolved, in these words, that as this province has received no assistance from our mother country, and as we have already expended large sums of money for the raising and supporting a considerable body of men for the defence of our extensive frontiers, against the continued depredations and encroachments of a savage and merciless enemy, besides what has been expended in maintaining the friendly Indians, French neutrals, and in other purposes for the king's service, which expences are likely to be continued for some time; the house are of opinion, that the present circumstances of the province will not now admit of their going into any preparations for executing the aforesaid plan of operations; and that it would be not only impracticable, but very imprudent, at a time the country is so greatly distressed by the unjustifiable taking of indented servants, and so many of our freemen are inlisted and gone away, to send so great a proportion of men as is demanded of us, to so great a dis-

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tance, and thereby deprive ourselves of their assistance, which we have too much reason to think we shall soon have occasion for.'

These were the transactions of April 16th; and, as the reader will observe no notice was taken of the governor's remonstrance concerning himself, he will from thence, perhaps, be led to account for his re-convening them so soon afterwards as the 10th of May; he being then absent at a place called Harris's ferry, and having nothing more pressing to lay before them, than what is contained in the following abstract of his message to them upon that occasion; to wit,

"That the people of the frontier counties westward having lost great numbers of their fighting men, and the remainder being either driven from their habitations, or worn out with fatigue, there was the greatest reason to apprehend, the next attack would produce the entire evacuation of the two next counties, York and Cumberland; that the consideration of this deplorable and dangerous situation of those counties, which the most considerable of their inhabitants had, in the most affecting manner, laid before him, had induced him to call them together; that the best and speediest means might be taken to prevent, if possible, farther desolation; that the law for establishing a voluntary militia had contributed very little, if any thing, to the defence of the frontier; that he had observed it was defective when he passed it, and that it required so much time to carry it into execution, that nothing good was to be expected from it; that, though many companies had been formed under it, yet, for want of sufficient power lodged in him to order them to the frontiers, they were, as to that most material service, entirely useless; that he must therefore recommend it to them to form such a militia as might be just, equal, and carried into immediate execution, so as that he might be able to draw the strength of the province to such parts as stood most in need of it; and the whole burden of defending the province might not fall too heavily on the few inhabitants whose circumstances obliged them to remain in the back counties; that, as by the

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latest accounts from Europe, a considerable armament from France was to be expected in America, now to become the seat of war, and as the enemy would in such case depend upon being supplied with provisions from the king's colonies, by the intervention of the Dutch, he conceived a general embargo would be necessary; and that it should be rendered effectual, by some such special law as should be thought necessary by himself and the governors of the neighbouring provinces, which he recommended to them to prepare; and that the affairs of the province, and, in particular, the building a fort at a place called Shamokin, which was of so great importance to the province, requiring his personal care and attendance, it gave him concern that he could not be then at Philadelphia; but that they might be assured he would give all the dispatch imaginable to any bills they might propose, which the secretary was to send to him from time to time by express.'

To give the more weight to the militia clause, a petition was presented to the house from the officers of the association companies in the city of Philadelphia, complaining of the insufficiency of the present law, and praying that a new one might be framed, in which the defects of the former should be remedied.

The assembly gave the petition a civil but cool reception; and, in their reply to the governor's message, furnished the public with a brief of their sentiments and proceedings on the present occasion; to wit:

'That being met in pursuance of the governor's call, they were concerned for his absence; as the public business could not be transacted as it ought, where the several parties were so far asunder; that as by the joint care of himself and the commissioners, for disposing of the sixty thousand pounds, the frontier was now in a better state of defence, than that of any other colony on the continent; the forts being numerous, all strongly garrisoned, and both officers and soldiers now reduced to due obedience and discipline, by means of the act of parliament, which, at their last sitting, they had extended to that province, they could not

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but hope, that the distressed inhabitants of the two counties mentioned, might by the blessing of God, become more secure in their settlements, and, consequently, more easy in their minds; and that more especially as they understood, there were in the interior counties many formed companies as yet unemployed, who were ready to enter into the service, and march to the frontier, whenever the governor should think fit to call them; and a considerable sum was still in the hands of the commissioners, wherewith the expence might be defrayed; that, as they conceived, the marching the militia to the frontier on every alarm, would be less effectual for its defence, and much more expensive and burdensome to the people, than their proportion of a tax for the maintenance of standing guards; that, indeed, they had little experience of a militia in this province, consequently, in framing so new a thing as a law to regulate it, their first essay might have its defects; that, however, as the governor did not point them out, when he passed the act, and they had not since occurred to them, all they could then say was, that when he should think fit to send down any supplementary amendments, they would take them into their serious consideration; which he, the governor, might possibly be ready to do by the time to which they stood adjourned, then not far distant; that they had therewith sent him a bill for prohibiting the exportation of provisions or warlike stores from this province, which they hoped would meet with his concurrence, being in conformity with the law lately passed at New York; but that as all restrictions made by them would be ineffectual, unless the lower counties (the territory as formerly called) were in like manner restrained; they had referred the continuance of their law, to such future act as the governor and assembly of those counties should pass for that purpose; that they apprehended a strict compliance with that law would be of great service to the British interest, and therefore earnestly recommended it to the governor, that when passed it might be carried effectually into execution. And, lastly, that as the season required the present attendance of many of the members at their plantations, they proposed to

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re-adjourn themselves to the same time as before; when they hoped the governor would find himself enough at leisure to meet them at Philadelphia.'

Thus ended this session of four days; the prohibitory law was passed by the governor at Harris's ferry; and when they met again, they received from the secretary two other messages from the same place; one designed for their farther amusement at their last sitting; but which arrived half an hour too late; and the other for the present.

According to the former, 'the governor had received letters from the governors Dinwiddie and Sharpe, giving an account of the miserable condition of their frontier; and the danger they were in from the enemy who had penetrated as far as Winchester in Virginia; he had, thereupon, redoubled his diligence for the better securing the most exposed part of their own; but he was still fearful, that, for want of a sufficient force to take the field, the garrisons on that side would not be able to keep off the numbers of the enemy, which there was the greatest reason to expect would soon appear in those parts; so that no time was to be lost in preparing, in some more effectual manner, for their defence.'

According to the latter, 'all the dispatch he had been able to make in his works had not brought them to such a forwardness as would permit him, without prejudice to that important part of the public service, to be in town at their meeting; he had, however, the satisfaction to tell them, that he had made a lodgment in a very secure place upon the river, beyond the Kittatinny hills (the place from whence, it must be recollected, he fired his first beacon to alarm, or rather distract, the province); the secretary would lay before them a letter from governor Sharpe, with the extracts of an act of his government for granting forty thousand pounds for his majesty's service; only twenty-five thousand pounds of it was conditional [so that conditional acts were regular in Maryland though not in Pennsylvania] that Pennsylvania and Virginia contributed their reasonable quotas towards the expedition it was granted for; they must be sensible there would be no peace or safety for them [his old argument]

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unless these western colonies united their strength in making a well-concerted push to dislodge the French from their encroachments; and that no time was so favorable as when his majesty's forces and those of the eastern colonies were employed against them to the northward; it was therefore to be taken into immediate consideration, and he was to be enabled to give governor Sharpe the expected assurances, that Pennsylvania would, for its own sake, contribute accordingly.'

A complaint from commodore Spry, that he was in great want of seamen for his majesty's ships under his command, and that he expected a supply from those colonies, brought up the rear; with a requisition 'that he might be enabled by bounty or otherwise to raise and send him as many as the province could spare, which would be a very seasonable and acceptable service.'

In conformity to so pressing and plausible a message, a money-bill was immediately ordered, and some progress was made therein. But advice having been received from sir Charles Hardy and sir William Johnson, that the Delawares and Shawanese had promised to cease from hostilities, and were disposed to renew and strengthen their alliance and friendship, and the governor (Morris) having caused a suspension of arms to be proclaimed thereon, they contented themselves with assuring him, 'that he should not fail of the necessary support in the prosecution of such measures as might tend to bring this good disposition of the said Indian tribes to a happy issue; and with recommending it to the commissioners of the sixty thousand pounds act, to concur with the governor in furnishing such supplies of money as might be necessary thereto.' They also again put the governor in mind of the Indian trade bill, so often recommended to him before; urging, 'that it might be of great service at that juncture, by bringing such of our Indians as had never been joined with, and desired to be distinguished from, those who had committed the outrages on the back settlements, under the immediate inspection and care of the government, by supplying their necessities on the easiest terms,

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securing their affections, and inducing others to come in for the same beneficial considerations.'

A promise to reconsider it, this drew from him; but, as if he had resolved to set his own price on such a service to the province, he put them in mind, by a message the same hour, 'That, though the trouble and expence of administration had been considerably greater than in any former time, no sums had been granted for his support since their first session; and he therefore desired, they would take this matter into consideration, and make such provision as was agreeable to justice and the practice of former assemblies.'

What the governor's case was with respect to revenue, and what the merits of his service, may be collected from the sheets already before us; so that it will be enough in this place to say, that the assembly could turn a deaf ear as well as he; and, that he, having given them to understand, in his message concerning sir Charles Hardy's intelligence, and the suspension of arms, that he had called the assembly of the lower counties to meet him on the 4th of June, in order to render the late embargo permanent and effectual, by prevailing with them to pass a law to the same effect, and that he imagined his absence for three or four days would be no interruption to their proceedings, they adjourned themselves to the 28th.

Before they separated, however, which deserves notice, six members requested leave to resign their seats for certain reasons by them specified in a paper presented to the house at the same time; and it was, after consideration, resolved thereon, that, in case they continued in the same mind after the adjournment, and delivered the said paper into the hands of the speaker [in proof thereof] their seats should be deemed vacated accordingly. They did continue in the same mind, and delivered the following paper as proof thereof.

'*May it please the Speaker and the House,*

'A few days since we communicated to the house our inclinations to resign our seats; in which the house appeared disposed to favour us.

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'This repetition of our continuing in those intentions, does not proceed from any design of involving the house in unnecessary trouble; but as many of our constituents seem of opinion, that the present situation of public affairs calls upon us for services in a military way, which, from a conviction of judgment, after mature deliberation, we cannot comply with; we conclude it most conducive to the peace of our own minds, and the reputation of our religious profession, to persist in our resolutions of resigning our seats, which we accordingly now do; and request these our reasons may be entered on the minutes of the house.'

The speaker hereupon sent an order to the secretary, being the proper officer, to issue writs for so many re-elections, who thought fit to refuse obedience, the governor being of opinion, that though there was an express provision by law for filling a vacancy occasioned by wilful absence, there was none for a vacancy occasioned by resignation. Upon which the speaker, by the advice of such members as were then in town, issued his own writs, founded on the same law, from whence the governor derived his objection. These writs the sheriffs obeyed, what instances soever they might have been importuned with to the contrary; the freeholders exercised their rights of electing in pursuance of them; the returns were made in the usual form; and the house resolved *nem. con.* that the members so returned had been duly elected.

Thus the breach was closed as soon as it was opened; and whatever view the governor had to serve by his opposition, he neither did himself or views any service by it.

His message, introductory to the business of the session, contained a notification of the king's having appointed the earl of Loudon, commander in chief of all his forces in America, with two regiments of foot, a train of artillery, stores, &c. and commanded him, the governor, to give his lordship and the troops all the assistance in his power: particularly to recommend it to them, to appropriate such part of the funds already raised, or to be raised, for the public service, so as to be issued as his lordship should direct. As also of another circumstance altogether new in the British

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constitution; namely, his majesty being enabled by act of parliament to appoint a number of German, Swiss, and Dutch Protestants to be officers of a regiment to be raised and called the Royal[14] American Regiment; as also of another particular recommendation which he was enjoined to make to them, that the masters of such indented servants as should engage in the king's service, might be indemnified out of the funds raised for the public service. And the nature of this review requires, that the sequel of this message should be given in the governor's own words, which were as follows, to wit:

'His majesty has further commanded me to recommend it to you, to pass effectual laws for prohibiting all trade and commerce with the French, and to prevent their being supplied with provisions; and as the law lately passed here for an embargo will, by the expiration of the act for that purpose passed in the lower counties, end on the seventh of July, I hope you will prepare a proper bill for continuing an embargo, so necessary for his majesty's service, and the safety of these colonies, for some time longer.

'The secretary will lay before you extracts of the secretary of state's letters to me, relating to the matters now recommended, and I hope you will without delay enter upon the consideration of them, and comply with his majesty's expectations.

'The money heretofore given for the king's use will be very soon expended, and I shall in that case be under a necessity of disbanding the troops raised for the defence of the province, and of destroying or abandoning the several forts erected upon our frontiers; I must therefore desire you will grant such further supplies as the present situation of our affairs require.'

14 This American Regiment was to consist of four thousand men: it was to be composed of whatever protestants the colonies could furnish, and, according to the first plan, was to have been commanded by none but foreign officers; but this plan having been objected to, some abatements were admitted; namely, that the foreign officers should not exceed one half of the whole number; that room should be left for some Americans; that the commander should be always a natural born subject, &c.

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To the clause relating to the embargo, the house ordered an immediate answer to be prepared; in which, having told him what he could not but know before, "that they had already done what was now required of them, by a law still in force, and which would have so continued till August 4, the time limited by the law of New York, provided the three lower counties had also passed a law conformable thereto," they proceeded in these words;

"As provisions might be exported from this province through those counties, not subject to our laws, and great quantities are raised there, we were fully apprized that any restraints we could lay upon our exportations here would by no means put a stop to the supplying the French with provisions, unless that government prohibited the exportations from thence also; we therefore limited the continuance of our act accordingly, and we must own the astonishment we were under, when we found the governor had enacted a law there invalidating the acts of the other colonies, by limiting the continuance of their act to one month only.

"As our act prohibits the exportation of provisions in conformity with the law of New York colony, with which New Jersey, we understand, has also complied, the governor cannot think it reasonable, that the colonies of New York, New Jersey, and this province, should be deprived of their laws by an act of the government of the three lower counties; therefore, as that act was passed by the governor himself, we presume, instead of applying to us upon this occasion, he will think it his duty to call the assembly of the three lower counties, to whom it belongs, to continue their law to the time limited by the other governments.

"It is well known that Maryland raises great quantities of wheat, pork, and other provisions, and yet, as we are informed, their ports have hitherto continued open to the exports of provisions from thence; the governor will therefore judge the necessity of recommending a prohibition there, without which, we apprehend the acts of the northern and eastern colonies must prove ineffectual."

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The bill of supply already before the house, was, in the next place resumed: and to clear the way as they went, a new message was sent to the governor to know, whether he had come to any resolution on the excise and Indian trade bills? to which, in effect, he answered, that, as to the latter, he thought his amendments to it so just and reasonable, that he could not, therefore, recede from them; and as to the former, that he had added a clause by which the money to arise by it, was to be disposed of in such a manner as the governor and commander in chief, and in case of his death or absence, the president of the council and the assembly should direct; adding, 'this manner of disposing of the public money appears to me most conducive to the general interest, and you will observe by an article in the proprietary instructions to me, which I send you herewith, that I am restrained from passing any bill of that nature without such an appropriating clause.'

And this instruction was delivered in the terms following, to wit:

'You shall not give your assent to any law for prolonging the present excise, or laying any other excise, or raising any money on the inhabitants of the said province of Pennsylvania, unless there be an enacting clause, that all money arising from the said excise, or other duties, shall be disposed of only as we or either of us, exercising the office of governor, or the lieutenant-governor, or, in case of his death or absence, the president of the council, and the house of representatives, for the time being, shall direct; and not otherwise.'

Thus the great proprietary secret, so long suspected, so long and so cautiously preserved, and which had operated so mischievously and dangerously, not only to the province of Pennsylvania but all the provinces adjoining, was at last acknowledged; and it thereby became undeniable, that, under such a commission, inforced by a penal bond upon the holder of it, neither the province could be protected, the king served, or the interest of the community maintained, unless the freemen parted with their birth-rights, and the special confirmations of them contained in their charter.

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And it is equally to be wondered, that any two subjects in the king's dominions, should presume to exact such concessions from their fellow-subjects as his majesty himself neither has, or makes any claim to; and that any gentleman should submit to serve them on such equally tyrannical and servile terms.

The resolutions of the house hereon were worthy of the occasion, and as such are equally worthy of having a place in this work.

'Resolved, that it is the opinion of this house, that the said proprietary instruction was the principal, if not the only, obstruction to the passing the several bills offered to the governor by the last assembly for granting money for the king's use.

'That the act for laying an excise on wine, rum, brandy, and other spirits, passed in the year 1744; and the act granting five thousand pounds for the king's use, passed the 24th of June, 1746, by which the said act for laying an excise on wine, rum, brandy, and other spirits, was continued for ten years next after the first day of June, 1746, have received the royal approbation.

'That acts laying an excise on spirituous liquors have been found necessary for defraying the charges of government, and have been continued within this province for more than thirty years; and that the governor's not passing the bill presented to him for continuing the excise, upon the terms of all our former acts, repeatedly approved of by the crown, from an apprehension that he is restrained by the said proprietary instruction, is evasive and frivolous, and an infringement of our just rights; and, that, as deputy-governor of this province, he has, or ought to have, full powers to give his assent to all such bills as we have an undoubted right to offer.

'That the said instruction "is not calculated to promote the happiness and prosperity of this province, and is inconsistent with the prerogative of the crown, and the liberties of the people;" and that all proprietary instructions, not warranted by the laws of Great Britain, are illegal, and void in

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themselves; nevertheless, if the governor should apprehend himself bound by such proprietary instructions, they may prove ruinous to the province, and of dangerous consequence to the British interests in America.

'That the house do adhere to the bill for continuing the act for laying an excise on wine, rum, brandy, and other spirits, as it now stands, without admitting the governor's proposed amendments thereto.'

It now also became apparent to the province, that even the boasted free-gift of the proprietaries of five thousand pounds, was not to be obtained but as it could be collected out of the arrears of their quit-rents; and that it being impracticable to collect such a sum fast enough to answer the public demands, the deficiency could no otherwise be made good than by act of assembly for striking the sum of four thousand pounds, remaining due on the proprietary-order, in bills of credit, to be sunk out of the growing payments as they should come in. This, in short, was the favor applied for on their behalf by their receiver-general, who declared, at the same time, that he had consulted the governor on this head, who had expressed his readiness to concur with the house in a reasonable bill for that purpose; not directly to the assembly, however, was this favor applied for; nor as a favor to the proprietaries; that would have been beneath the proprietary dignity; but by the interposition of the commissioners of the sixty thousand pounds act. The assembly nevertheless gave way to the expedient; the receiver-general had leave to bring in a bill for the purpose; and the same, with a different preamble, was passed and sent up to the governor. The difference is this. In the first, the reason assigned for the bill was to this effect; "whereas the proprietaries have been pleased to make a free-gift of the sum of five thousand pounds towards the public charge, &c. whereof their receiver-general had as yet been able to pay but one thousand pounds to the end, therefore, that the good intentions of the proprietaries in the said gift may be fully answered, and the public may receive the immediate benefit thereof, Be it enacted, &c.—In the second, care was taken to

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specify, that the said sum was to be applied towards the public charge, and was given in consideration of their [the proprietaries] being exempted from the payment of their taxes towards raising the sum of sixty thousand pounds.

On the same day that the bill was thus sent up, namely, the seventh after their meeting, they also sent up a money-bill, for granting the sum of forty thousand pounds for the king's use, and for striking the said sum in bills of credit, and to provide a fund for sinking the same; and, upon the receipt of the said bill, the governor was pleased to say, "That he would give it all the dispatch in his power, but that he could not say when the house might expect to know his result thereupon, as he was that day going to Newcastle, in order to meet the assembly of the three lower counties."

Notwithstanding which, the two members to whom he thus expressed himself, were no sooner withdrawn, than he sent after them another message to the house, signifying, "That by intelligence he had received from two Indians, two days before, the western Indians were forming themselves into a body in order to attack the province about the time of harvest, &c." adding, 'If upon consideration of this matter, any other measures are necessary for the public safety, you will enable me to take them.'

Thus, harlequin like, he could play contrary parts in the same interlude. If a supply was not given without delay, the troops were to be disbanded, the forts destroyed, and the frontier consequently laid open; and yet, with a supply in his hand, he could deliberately go upon another service; at the same time he could also communicate intelligence of additional dangers: and yet with the same supply in his hand, he could insinuate want of ability to withstand them.

The assembly, in fact, told him in reply to this message, that in case he passed their bill, he would find himself sufficiently enabled to take every measure that might be necessary.

What is farther remarkable, a merchant of Philadelphia, who had supplied the garrisons in Newfoundland with provisions for six years, and who had now a vessel in the port

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freighted with the same, could not obtain a clearance; the governor and council being unanimously of opinion, that, because of the late act to prevent exportations, no such clearance could be granted. A member of the house, who, by order from the navy-contractor at Jamaica had, in like manner, freighted a ship, met with the same difficulty under the same pretence. Both made application to the house for relief: and it was not only resolved, that the said act was of the same tenor with that of New York, and never intended in any wise to restrain the exportation of provisions for his majesty's navy and garrisons, nor could, in their opinion be so understood, except by the most forced construction thereof; but also, that to prevent any ill consequences which might arise from such interpretation, a bill should be immediately prepared at the table for expressly permitting such exportations.

This bill, when finished, was sent up to the governor, who promised to give it all the dispatch in his power; and was followed by another for a longer continuance of the embargo act, with a similar clause of explanation; upon the presenting of which, the governor being asked, by order of the house, whether he had come to any determination upon the former? answered, "that he had read but not considered it." And being farther pressed on the necessities of the service, according to the allegations above specified, said, "that, in case the legislature of the three lower counties did not continue the embargo, the same would expire in a few days, and then there would be no necessity of the said supplementary act; and if the embargo act of the three lower counties should be continued, he would have it in his power to permit vessels laden with provisions or stores for his majesty's service to sail at any time, by the bill the house had sent him for that purpose."

Thus the two ships were to be continued in port, to wait the good pleasure of another government; and the interval was to be lost to the service, unless the owners found ways and means to accommodate matters with the governor.

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The house, however, plied him with another message, and received such another illusory answer; they also again put him in mind of the forty thousand pounds supply-bill: and were told (notwithstanding his pressing message at the opening of the session) "That he had not read it through; but that he thought it stood in need of amendments." He also told the two members employed upon that occasion, "He was just then setting off for Newcastle;" and they acquainting him farther, "That, as it would be extremely inconvenient to the country-members, to continue sitting till his return, and as there was no business depending of any importance, but what lay before the governor, they had thoughts of adjourning that day (being July 5) to the second of August, by which time the harvest would be nearly over," his answer was, 'That he had no objection to their adjourning over the harvest, and that he approved of the time proposed.'

And the house, on the return of their messengers, having first resolved, "That any ill consequences which might attend the governor's not passing their supplementary bill (for exporting provisions for the king's service notwithstanding the embargo) would not lie at their door," did adjourn accordingly.

After all which, on that very day fortnight, (July 19,) in the very midst of the harvest, did this worthy governor oblige the members by special summons to meet him; the occasion of which is thus set forth in his message to the house of that day, to wit.

'Gentlemen, at your instance I called the assembly of the lower counties, and pressed them to continue the prohibition of provisions and warlike stores to the time limited by the laws of New York, and Jersey, but they chose only to continue it till the 20th instant, and from thence for so long time as the legislature of this province should pass or continue a law for the like purposes, provided the same did not exceed the 22d day of October next. I am thereby laid under the disagreeable necessity of calling you together at this busy season, in order to have the embargo continued for the same

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time that it is in the provinces of New York and Jersey; and as the acts of assembly passed for the prohibition of provisions and warlike stores will expire with to-morrow, I hope you will immediately enter upon this matter, and give it all the dispatch the nature of the thing requires. The secretary will lay before you a copy of the act of the lower counties, and you will, by proper clauses in the law you may think it necessary on this occasion to propose, leave me at liberty to send supplies to such of the king's ships and forces as may be employed in any part of America, and to put the trade of this place, while the embargo lasts, upon the same footing it is in the other bread colonies.'

And the very next day the merchants, owners, and masters of vessels then lying in the port, presented a petition to the house, "setting forth, the damages and losses they had already sustained for want of being allowed proper clearances; as also the disadvantages, discouragements, and losses which the whole province would[15] specially and unavoidably be liable to, in case the embargo was to be continued for a longer time, than by the late law was provided; recommending bonds with sufficient penalties, to be discharged only by the certificates of the British consuls residing at such foreign ports, as the several vessels and cargoes were entered for, and consigned to, as the only proper expedient to answer the ends proposed by such laws, without destroying their trade, on which the well being of the province depended; and requesting such relief and assistance in the premises as they, in their wisdom, should judge most expedient; in no wise doubting their ready and hearty disposition towards the general good and service of their country."

Fruitlessly dismissed, and impertinently reconvened, as the assembly had been, within so short a time, a warm expostulation was the least that could be expected upon it; and yet the warmth they shewed was by no means equal to the pro-

[15] Boston having little of provision to export besides fish, which was excepted by their act; New York having a tolerable market, because the forces took off a great part of their product; and Virginia and Maryland having had their ports open all this time.

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vocation they received; but on the contrary, was at once so moderated and justified, that their worst enemies could not derive the least pretence of reproach from it.

Facts were in their favor; and a mere recapitulation of them was all that was necessary to shew how unworthily they were treated; which will account for the insertion of their answer to the governor in this place at large.

'May it please the Governor,

'On the 4th of May, 1756, the legislature of New York passed an act to revive an act, more effectually to restrain the exportation of provisions and warlike stores, from that colony, to be in force for twenty-one days; and after that time, to such time as the legislature of New Jersey, and Pennsylvania, should pass acts for like purposes; provided those acts did not exceed three months from the passing of that act, which was from the 4th of May to the 4th of August next ensuing.'

'Sir Charles Hardy having recommended to our governor, that he should lay before the assembly of this province, the necessity of enacting a law of the same tenor within this government; and the house being convinced that such an act would be totally useless, unless the three lower counties of Newcastle, Kent, and Sussex, (not subject to our laws) were iucluded, passed an act on the 13th of May, of the same tenor, and nearly in the same words, with the act of New York, to be in force till the 7th of June, and from thence for so long time as the legislatures of the colony of New Jersey, and the counties of Newcastle, Kent, and Sussex, upon Delaware, should respectively pass laws for the like purposes; provided they exceed not the time limited by the law of New York government.

'On the 29th of May, the legislature of New Jersey passed an act, to be in force from the first day of June to the first of August, and from thence for so long time as the legislatures of the colonies of New York and Pennsylvania should respectively pass laws for the like purposes, provided they did not exceed three months from the said first day of August.

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'This being the state of the laws laying an embargo on the exportation of provisions and warlike stores; first, by the colony of New York on the 4th, then by this government on the 13th, and by New Jersey the 29th of May last; it is most unkind, and give us leave to say, in our opinion, unbecoming the dignity of government, that in the governor's last message he should not take the least notice of any law being ever passed by us for laying any embargo within this port, but only mentions his having pressed the assembly of the lower counties "to continue the prohibition of provisions and warlike stores, to the time limited by the laws of New York and Jersey," as if no such law had ever been passed by himself within this province! what purpose such a conduct towards us is to answer, the governor best knows. But when he proceeds in his said message to propose to us "to have the embargo continued for the same time that it is in the provinces of New York and Jersey," we must confess we are entirely at a loss to know what the governor would mean; our present act coming precisely within the governor's recommendation; being made in compliance with the law of New York. If the lower counties have not complied with those terms, it is not to be imputed to the assembly of this province, who have fully discharged their part to make the embargo effectual.

We entreat the governor to consider and reflect on the share he has had in the laws of the lower counties, passed by himself, which seem calculated to give this house unnecessary trouble to no good purpose whatever; for now when he has thought fit to call us together in the heighth of our harvests, our servants generally taken from us, and the country in want of labourers, what has the governor been pleased to propose, but to pass an act to continue the embargo "for the same time that it is in the provinces of New York and Jersey," which is the tenor and limitation of our present act, it being to have continued (had the lower counties passed their acts in conformity with the laws of New York, as this province and New Jersey had already done) to the 4th day of August. And as New York has not extended their act that we know of (which will probably become unnecessary on the

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proclamation of a war with France, now daily expected) any new act we could make would only be to continue the act of this province to the time it was to continue; which is such an absurdity as we presume on reflection the governor will not insist upon.

'But that no time might intervene, whereby the French might be supplied with provisions or warlike stores from this province, we, at our last sitting, put into the governor's hands "a bill to continue the act for preventing the exportation of provisions, naval or warlike stores, from this province to Cape Breton, or to any other, the dominions of the French king, or places at present in possession of any of his subjects," to prevent, as much as lay in our power, any deficiencies which might arise from the conduct of the assembly of the three lower counties, if they should think fit to invalidate the acts of the other colonies for laying a general embargo.

'At the same time we also sent up a bill, intitled, a supplementary act to a law of this province, intitled, an act for the more effectual obstructing the exportation of provisions and warlike stores from the province of Pennsylvania; which bill, if the governor had passed it at the time it was sent to him by the house, or if he should hereafter be pleased to give his assent thereto, would prevent all doubts, and give full liberty to send supplies "to such of the king's ships and forces as may be employed in any part of America;" and we have never endeavoured to put the trade of this place, where the interest or dignity of the crown is concerned, on any other footing than it is in the other colonies.'

The two members appointed to wait upon the governor with this paper, were also charged with the bill for striking four thousand pounds in bills of credit on the proprietaries' account; and to acquaint him thereon,

That the house think it highly necessary that there should be some preamble to the said bill, otherwise those who are not particularly acquainted with our affairs, may imagine that the proprietaries have thereby given four thousand pounds over and above the five thousand pounds specified

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in the act for granting sixty thousand pounds to the king's use; the house therefore propose, that since the governor is averse to having it mentioned in the preamble, that the said five thousand pounds was given by the proprietaries in consideration of their being exempted from the payment of their taxes towards raising the aforesaid sum of sixty thousand pounds, although the same is expressly declared in that act, without any objection having been made thereto by the governor, at the time it was passed, they will leave out the first clause of the preamble, and instead thereof insert the following clause, viz.

'Whereas the honorable proprietaries of this province have been pleased to make a free gift of the sum of five thousand pounds, for the purposes and in the manner particularly set forth by an act of general assembly of this province, passed in the twenty-ninth year of his majesty's reign, intitled, an act for granting the sum of sixty thousand pounds to the king's use,' &c.

The governor after reading the message was pleased to answer,

'That he believed the house had misunderstood his message; that he had no intentions of disobliging them, and that he was sorry to see they had taken any offence; however, as he was about leaving the government, he should not return any answer to it; and that as to the bill for striking four thousand pounds, to be replaced by the proprietaries receiver general, he thought the house gave a good reason why there should be some preamble to the said bill, and that he would take the one proposed into consideration.'

The result of which consideration was, the sending down another preamble in lieu of the first, specifying the free gift, but dropping the consideration of exemption, without taking any notice at all of the last; which other preamble was unanimously rejected on the first reading.

That they were still willing to pass the bill with their own second preamble, they, nevertheless, informed the governor; and, in the same message, they also desired to be informed, "whether he had come to any resolution concerning the ex-

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cise-bill, and the forty thousand pounds bill for the king's use?" and here the affair stuck; the governor remained mute; or at least only answered the two latter parts of the message, without taking any notice of the former. "The excise-bill, he said, he neither could or would pass;" and as to the forty thousand pounds bill, he sent it down so amended, by leaving out the clause for taxing the proprietary estate, as again rendered the session abortive; the house resolving to adhere to their bill as sent up, without admitting his said amendments.

So that, after all the parade which had been made both there and here of this prodigious gift, the province was either to receive it in so peddling a way, as rendered it in a manner useless; or else, though they took it upon their own credit, to release the donors in effect of all future claim, by consenting to drop the terms on which alone it could be consistently accepted.

What is farther remarkable, during the course of this interchange of messages, one from the governor concerning Indian affairs, was sent to the assembly, which was altogether irreconcileable with that which he had sent them sixteen days before. It will be recollected, that on the 5th of the current month July, the western Indians, in contradiction to the advices received from sir Charles Hardy and sir William Johnson, were to fall on the province in time of harvest; and now on the 21st, in conformity to those advices, such of the said western Indians as had attended the conferences between the Six Nations and the said sir William Johnson, had not only laid down the hatchet, but also engaged to follow the example of the said Nations, in assisting us against the French. Nor was this all: a number of the Susquehanna Indians, and Teedyuscung a king of the Delawares, had discovered so good a disposition to return to their alliance and former friendship with us, that nothing was wanting but an interview between him (the governor) and them; and a proper provision for the expences hereof, and the fulfilling such engagements as the present exigencies might require.

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Such were the tidings now imparted, with an assurance, that he should therein have a particular regard to the honour and safety of the province.

To the province nothing could be more agreeable than such tidings; nor could any service be named in which they would have laid out their money more willingly; but their public stock was exhausted; and by the several negatives put upon their bills, they were disabled from raising more; consequently were as much distressed now for the means of making friends, as before for the means of defending themselves against their enemies.

What sum would be sufficient? was the first question; the governor being consulted on that head, answered, "That he had made no calculation; but it seemed to him, that about four or five hundred pounds might serve; though the expence would be the greater, as he should be obliged to have a body of soldiers for his guard;" the commissioners of the sixty thousand pounds act were next advised with; and upon the issue of all, they made use of this incident to lay a brief state of their case before the governor in the usual way of message; in which having expressed their satisfaction in the news imparted, they proceeded as follows, viz.

'And in this critical juncture, when a happy issue of a treaty with the Indians must be of so great advantage to the proprietary interest, as we apprehend the present treaty must be, we cannot suffer ourselves to doubt their willingness to contribute towards the heavy expences the province groans under for Indian affairs; especially considering the governor has just now refused to pass our bill for granting forty thousand pounds to the king's use, because the proprietary estate was therein taxed, in common with all the other estates in this province, for their mutual defence; and has also refused to continue our excise act, some time since expired; so that the province is greatly indebted, and our only remaining fund reduced to the lowest extremity.

'Under these circumstances, we made application to the commissioners, appointed by the act for granting sixty thousand pounds to the king's use, to know whether any money

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remained in their hands, which might be applied to the present emergency; but we find, that the fifty-five thousand pounds, to be sunk by the provincial tax, is expended; that near four thousand (part of the five thousand) pounds, given by the proprietaries, in consideration of their being exempted from their share of that tax, is not paid into the commissioners hands; and if the whole sum was paid, the debts already contracted for the defence of the province, are nearly equal thereto. Nevertheless, as we apprehend the treaty proposed to be held with the Susquehanna Indians, and the Delaware king Teedyuscung, may be attended with lasting good consequences, we have resolved, that the sum of three hundred pounds, be allowed by this house for that purpose.'

The members sent herewith, were also to apprize him, that if it was pleasing to him, they should adjourn to the 16th of August; and his answer was,

'That he should not engage for the proprietaries contributing any thing towards the expences that may attend the proposed conference; that as the house had voted three hundred pounds for that purpose, he should wait at Easton or Bethlehem till the whole was expended, then take his horse and ride away to New York to meet lord Loudon; and that as to the time of adjournment, he should not say whether he was pleased or displeased with it, but leave it entirely with the house to do as they pleased.'

A compliment from general Shirley to the province on his being recalled, acknowleging the "repeated instances of their contributing towards the defence of his majesty's just rights and dominions, and to assure them of his hearty wishes for their welfare," without one civil thing to his brother governor, though the letter is directed to him, is the only thing remarkable of the session hitherto omitted; and injuriously, wickedly, and impudently, as the province has been aspersed, no voucher of that authentic nature can, or ought to be dispensed with.

On the 16th, according to their adjournment, they met again; and the next day they were honored with the governor's message; which told them, in the first place, what they

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had long told each other before, namely, "that their treasury was exhausted; that the troops wanted their pay; that a supply was necessary," &c. The taking and burning of an outfort on the Juniata, called fort Granville, made a good terrifying ingredient in it; the rest was the stuff that he had talked over and over, till the ear was weary of hearing it; except that major Rutherford, the commanding officer in that province, of the new American regiment then raising, wanted barracks for one thousand men; and that his recruits being chiefly indentured servants, it would be necessary for the house to make provision for the payment of their masters, for the residue of the time each had to serve, in conformity to his majesty's instructions."

The next day the house sent up their reply which was as follows:

'*May it please the Governor*,

'The house have repeatedly offered the governor bills for granting considerable sums to the king's use, to which he has refused his assent, being restrained by the proprietaries, as he says, from passing any bills in which their estate is to be taxed towards its defence. We know of no equitable way of raising such large sums as are now necessary, but by a general tax on all estates, real and personal. We have voted another sum of forty thousand pounds, to be raised in that manner, and are preparing a new bill to lay before the governor for that purpose. But as we are, and must be still, of opinion, that the proprietary estates ought to be taxed in common with those of their fellow subjects in all the rest of the king's dominions, for their common defence, we cannot omit a clause of that kind in our bill, without injustice to the king's other subjects, ourselves, our constituents, and posterity; and we believe, that an equal number of men, of any sect, nation, name, or party, among us, will never be chosen to represent the province, who would be of a different sentiment in this particular.

'In the mean time, we earnestly request the governor would use his influence with the proprietaries' receiver general, to induce him to pay the remaining sum of near three

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thousand pounds, yet behind of their contribution of five thousand pounds, which by law was to have been immediately advanced, but is still withheld from the commissioners, to the injury of the poor soldiers, whose pay is in arrear for want of that money, the fifty-five thousand pounds, we granted by the said bill for the king's use being expended.

'We are sensibly affected with the distressed state of our frontier inhabitants; though we apprehend they are in a much better situation than those of the neighbouring provinces, who are equally near the enemy: and we hope they may be rendered still more secure, by a vigorous exertion of the force now on foot for their protection, and the annoyance of the enemy.

'The other matters recommended to us by the governor, we will take into consideration, and hope we may be able to do therein whatever ought to be expected of us.'

This was the last parley between the assembly of Pennsylvania and Mr. Morris, who makes so notable a figure on their list of governors. Captain Denny his successor was at hand; and therefore he did not think it worth his while to compose a reply, which he might reasonably suppose no body would think worth reading.

Change of Devils, according to the Scots proverb is blithsome!

> —— Welcome ever smiles,
> And farewel goes out sighing ——

says Shakspeare.

The whole province seemed to feel itself relieved by the alteration of one name for another. Hope, the universal cozener, persuaded them to believe, that the good qualities of the man would qualify the governor. He was received like a deliverer. The officious proprietary mayor and corporation, more than once already mentioned, made a feast for his entertainment; and having invited the assembly to partake of it, they also were pleased to become forgetful enough to be of the party.

That the said assembly should congratulate him on his arrival and accession (though the term is a royal one) was, per-

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haps, no more than a decent and respectful compliment; and that they should augurate from the excellence of his character, that his administration would be excellent, a fair and candid inference. But that they should find six hundred pounds at that time in their treasury to present him with, as an initiation-fee, may be matter of surprize to all readers of their votes alike. Tired they might be of opposition; pleased to find some pretence for relenting; but how they should find money where no money was, would be beyond conjecture. The order, therefore, on their treasurer, for that sum could only be considered as a present mark of their good will, and an obligation on the house to provide, in some future money-bill, for the discharge of that order.

Compliments over, government began. And in the new governor's very first speech, the province was given to understand, "that the French incroachments on the Ohio, which his majesty in his declaration of war had assigned as the principal cause of his entering into a just and necessary war, were within the limits of it, [which the province could never yet be convinced of;] and that therefore it was particularly incumbent on them[16] to exert themselves in the support of such measures as had been, or should be, concerted for carrying on the same with vigor; the state of the frontiers too, the devastations, cruelties, and murders committed there, and the horror they excited in him, made as good a topic in his hands, as the back counties, and the back inhabitants had done in his predecessor's; nay, those very back inhabitants are brought forward in the next paragraph; and,

[16] Had the French fort really been within the bounds of the grant to the proprietor, that would not have made the support of the war more particularly incumbent on the assembly of Pennsylvania, than on any other neighbouring government, equally affected and incommoded by its situation. For the country was as yet uninhabited; the property of the soil was in the proprietors; who, if it could be recovered from the French, would demand and receive exorbitant prices for it of the people. They might as justly be told, that the expence of his law suit with the proprietary of Maryland, for recovering his right to lands on that frontier, was particularly incumbent on them to defray.

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what is more, left naked and defenceless to a savage and merciless enemy by an immediate disbanding of the provincial troops, which, as before, was represented as unavoidable, unless fresh supplies were quickly raised for their support."

In short, if Mr. Morris had made the speech himself, he could not have carried on the thread of government with more consistency; for, as to the douceur at parting contained in these words, "let unanimity and dispatch prevail in your councils; and be assured I will deny you nothing that I can grant, consistent with my duty to his majesty, and the rights of the proprietaries," it amounted to no more than this, do as my masters the proprietaries would have you, and I will say nothing to the contrary!

It is not to be conceived, that men of such long experience in the affairs of the province (so the members of assembly were characterised by their new governor) could be one moment at a loss for the meaning of his speech, or what was to be apprehended in consequence of it.

They had voted a supply of forty thousand pounds before Mr. Morris was superseded. They did not sit, as usual, in the afternoon of the day the speech was delivered; and though in the next day's deliberation they dropt the former bill, and ordered in another with a blank for the sum, they adjourned the day following, without doing any business at all; nay, though quickened the next following with a message accompanied with an extract of a letter from lord Loudon, as also several other letters and papers (among the latter, one containing a letter from colonel Armstrong, concerning some secret which was to be kept a secret still) they demurred both that and three days more, before they came to any farther resolution; and then they agreed upon an address by way of answer to his speech, in which, after a paragraph or two of compliment, they dryly gave him to understand, 1st, "that from the very nature of their frontier which was so extended that it in a manner covered the three lower counties, Maryland, and New-Jersey, and consisted of dispersed settlements, the horrors he talked of

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could not be prevented; 2dly, that as it was in a better state of defence than that of any of the neighbouring colonies equally near the enemy, they could not but hope the inhabitants would be equally safe; and 3dly, that as great unanimity did prevail in their councils, they should, as far as lay in their power, consistent with their just rights, enable the governor to afford the people the continuance of that protection they so much stood in need of," &c.

They also accompanied the said address with the following message; which was obviously of the nature of a postscript, calculated to contain the business purposely omitted in the letter it belonged to.

'*May it please the Governor*,

'As soon as we heard and considered the governor's speech, and before we received his message with the letter from lord Loudon, we resolved to give a sum of money for his majesty's service; demonstrating, by that readiness, that we are not insensible of our duty to the best of kings, nor of the necessity of enabling the governor at this critical conjuncture to protect the people committed to his care.

'As former grants of this kind have been long delayed, or rendered ineffectual, by means of latent proprietary instructions, not communicated to us till we had spent much time in vain in forming our bills, we would now humbly request the governor to lay before us full copies of such of his instructions as relate to money-bills of any kind, with the preambles or other parts that contain the reasons of such instructions; that we may, if possible, avoid all occasions of delay in affairs so important, and that our judgments may be informed of the equity or necessity of rules to which a conformity is required.

'From the governor's candor, and sincere desire to facilitate and expedite, by every means in his power, what is necessary to the public welfare, as well as from the reasonableness of the thing in itself, we have no doubt that he will favor us in granting this request.'

The assembly was civil; the governor was artful. As he would not grant all that was asked, he resolved to be as for-

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ward as possible in performing as much as he designed. Thus, on the very day their request was made, he laid the instructions in question before them; being the eleventh, twelfth, and twenty-first articles of the proprietary instructions.

Of these, the first regards the interest money arising from the provincial bills of credit, and the money to be raised by excise; and having by advance asserted a joint intention in the said proprietaries, and the house of representatives, to have it applied for the public service, proceeds to ground upon that joint intention a title to an equal power over it; then forbids the governor to give his assent to any bill or act of assembly for emitting, re-emitting, or continuing any paper-currency, unless the whole of the interest money arising therefrom should be disposed of only to the very purposes to be specified in such act, or where that could not be conveniently done, by the joint concurrence of governor and assembly for the time being. And the same prohibition is also extended to all excise laws, except the disposition of the money to be raised by them is also appropriated in the same manner.

The second, having admitted that a reasonable and moderate quantity of paper-money tended greatly to the benefit of theprovince, as well as to the trade of Great Britain, and that the dangers of depreciation arose only from an over great quantity, authorises and impowers the governor discretionally, on proper inquiry made, and proper assurance obtained of the real utility of such a measure, to make an addition to the present currency of forty thousand pounds more; provided strict regard was had to all the limitations specified in the instruction foregoing; and also, that effectual care was taken that all rents and quit-rents, due to the said proprietaries, should be always paid according to the rate of exchange at the times of payment between the cities of Philadelphia and London, by some sufficient provision in the very act itself, or some separate act, as was done in the 12th of the present king, when the farther sum of eleven thousand one hundred and ten pounds, five shillings was issued.

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And the third related to the proprietary estate; concerning which it asserted and maintained, 1st, that the said estate never had been taxed; 2dly, that, over and above such exemption, several acts were passed, giving to the said proprietary a support by duties and other impositions; 3dly, that, since the expiration of those laws, no aid had been given to the proprietaries as such; notwithstanding which, they had on several occasions, shewn their regard to the public service, by voluntarily and cheerfully expending several considerable sums of their own money for the advancement thereof, although no provincial tax had been laid upon the people within their time, till the last year; so that, not having any reason to suspect, the assembly would deviate so much from the ancient usage, as to pretend, by any act of theirs, to charge their estate with the burden of any taxes, they had therefor given the preceding governor no particular instructions on that head; 4thly, that the assembly, taking occasion of the troubles of America, had represented them in a very untrue light, as unwilling to assist the public by contributing to the defence of the country, though no application had been made to either of them for that purpose; 5thly, that the bill they had prepared and sent up for raising fifty thousand pounds for the king's use, by a tax of twelve cents per pound, and twenty shillings per head, was a bill of a most unjust and extraordinary nature; in as much as the estates of the proprietaries were not accepted, but, on the contrary, the assessors were to acquaint themselves with, and procure the amount of their estate in quit-rents, and in the same manner as other estates were assessed and taxed in the respective counties, by virtue of the said bill; as the said twelve cents was laid on the whole value or fee-simple of every estate, which, supposing the same computed at twenty-five years purchase only, was a quarter part more than the whole gross rent, without allowing for any charges or repairs; as it was contrary to the royal charter, which required land-tax bills, as well as other bills, to be consonant to reason, the laws, statutes, and rights of the kingdom, &c. not repugnant to them; as so heavy a tax was not necessary to be laid for the raising such

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a sum, which might have been raised many other ways; as calculated for the purpose of putting it in the power of persons wholly chosen by the people to tax their estates up to their full value, and to ease other persons, by taxing them so lightly, as only to make up what might afterwards be wanting to complete the said sum; as the taxing of unimproved lands, yielding no rent or profit to the owner, was highly unreasonable, and contrary both to the practice of Great Britain, and the laws and statutes thereof; as, according to the best inquiries they could make, neither the quit-rents reserved to the crown, or the proprietaries of any other colonies, had ever been taxed towards the raising any supplies granted in those colonies; quit-rents in general being indeed so small, that little or no land-tax would be payable out of them, even in Great Britain, where land-taxes are annual; and as the grantees and owners of such farms and plantations, out of which such very small acknowlegments were reserved to them, did, in case of a land-tax, pay for the value of such their said farms; 6thly, that though their deputy governor did refuse his assent to the bill, on the assembly's refusing to exempt their estates, they were so far from desiring not to contribute to the defence and support of his majesty's rights and dominions, that immediately on the first notice sent them of Braddock's defeat, they sent over an order to their receiver-general to pay out of the arrears of their quit-rents the sum of five thousand pounds, as a free gift towards the defence of the province, desiring all disputes might cease, and that the governor and assembly would join together in measures to oppose the common enemy; 7thly, that the said sum of five thousand pounds, so by them given, was, according to their belief, twenty times more than the tax upon all their estates there, if truly and proportionably rated, according to the value of all other estates, would have amounted to, for raising a sum of fifty thousand pounds; 8thly, that another bill of the same unjust nature, for raising fifty-five thousand pounds, by a tax of six pence in the pound on the clear value of all estates (theirs excepted in consideration of the said free-gift) their then lieutenant-governor not being provided

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with particular instructions with respect to such bill, and because the money was then requisite for the defence of the province, gave his assent to; 9thly, that they, tendering as they ought to do, the then exigency of affairs, and the necessity of a supply, did not make any application to his majesty for his royal disallowance of the said act, as at any other time they should have done; 10thly, that the assessors appointed by the assembly in both the said bills were few in number, chosen by the people only, and not one by them; and though incapable of knowing the true value of the several estates, so to be rated and taxed, were made final and absolute judges without appeal; 11thly, that by laying so great a tax to raise so small a sum, the said assessors had it in their power to commit great irregularities, in taxing some estates to their utmost value, and easing others, which would be unequal and unjust, and was so much the more to be feared, because they, the proprietaries, had been informed, that in assessing the ordinary county levies on the like plan, many persons, instead of being rated at their full worth, had not been rated at a fiftieth part of it.

All these several articles (here stated in their full force) are introduced with a Whereas at the head of each, and all implicated in one embarrassed immeasurable period; to which is tacked the instruction itself, with the following preamble:

'And whereas the said assembly appear to us to have been inclined not only to load and burden our estates with taxes by their authority, directly contrary to former usage, but even to charge the same disproportionably, and in an unequal manner, in order to ease the estates of others, which is a measure we are by no means willing to consent to; and as the present invasion of his majesty's American dominions, may make it necessary to raise further supplies for his service in our said province, the assembly may hereafter propose and offer bills or acts of assembly, to lay additional taxes on real estates there; you are, therefore, hereby required and directed, not to give your assent to any bill or act of assembly of that sort, unless the act be made to continue for one single year only, and no longer,' &c.

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Here follows a variety of prescriptions and prohibitions; some plausible; some artificial; and all serving as a shoeing-horn to the great one of all, the exemption of the proprietary quit-rents, which was to be rendered as express as possible.

That, however, they may not appear altogether intractable, one concession is made towards the conclusion, which is worth more perhaps than they supposed; as it contains a tacit acknowledgment that, in equity, they ought to be taxed like the rest of their fellow-subjects, and yet less than them they would have it understood; such estates of theirs, as come within that description, not being like to produce such a sum as deserved to be made a provincial object; and the introductory part of the paragraph, as may be collected from the famous contest between them and the assembly concerning Indian expences, justly drawing the whole into suspicion.

This is the paragraph. *Valeat quantum valere potest.*

'And whereas we are, and always have been, most ready and willing to bear a just proportion along with our tenants in any necessary tax for the defence of the said province, which shall be equally laid upon the lands of the inhabitants, and also upon any of our manors or lands which are actually let out on leases, either for lives or years, as being estates in some degree like to those of which the inhabitants are possessed; therefore you are at liberty to give your consent to any reasonable bill or act for that purpose, provided the tax to be paid for such our last mentioned estates, shall be payable by the tenants and occupiers, who shall deduct the same out of the rents payable by them to us.'

It is remarkable, that through the whole, the language is such as could indeed become none but an absolute proprietary; all dictatorial; all in chief, as lord paramount; as if there was no king in Israel, nor any interest worthy consideration, but the proprietary interest; as if there was no occasion for royal instructions, or as if it was impossible any such should interfere with theirs; and as if the provincial legislature was a nose of wax to be twisted into what shape they pleased.

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Such were these instructions: and as to their effect in the house, it was such as was naturally to be expected; they saw a controversy without end before them, productive in its way of all manner of calamities public and private, and to be prevented or shortened only by a submission equally ruinous.

They saw this; and it threw them into agonies, though not into despair.

The first expedient they made use of was the following message to the governor:

'*May it please the Governor*,

'The house have taken into their most serious consideration the proprietary instructions relating to the passing of money-bills, which the governor has been pleased to lay before us; and as we are fully convinced the present unhappy circumstances of this province require very large and immediate supplies, we have likewise considered the funds whereby such sums as we judge absolutely necessary for the security of the province may be sunk; but every thing we have hitherto been able to propose, must be rendered in a great degree fruitless by those instructions, if adhered to.

'We therefore request the governor would be pleased to inform us, whether he does not apprehend himself at liberty, notwithstanding the said proprietary instructions, to pass such equitable bills as we may offer him, if consistent with his own judgment, and agreeable to such laws as have been enacted by his predecessors, and received the royal assent.'

To this the governor answered,

'*Gentlemen*,

'I am very glad to hear the house have taken the money-bills into their serious consideration, and the proprietary instructions on that subject.

'It would be with great reluctance, especially at this time, if I should differ in sentiments with the house of representatives. You will be pleased to observe how I am circumstanced, and that I cannot recede from my instructions without risking both my honor and fortune, which, I am persuaded, you, gentlemen, are too equitable to desire.'

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A bill for striking the sum of sixty thousand pounds, in bills of credit, and giving the same to the king's use, and for providing a fund to sink the same, by laying an excise on wine, rum, brandy, and other spirits, was the result; ten thousand pounds, of which was appropriated as the quota of the province to the general fund for the common service and defence of the colonies, and rendered subject to the orders of the the earl of Loudon; ten thousand pounds to discharge the debt contracted by the province for the provisions, furnished for the expedition against Crown-point; which debt had been unavoidably incurred, and could no otherwise be discharged; no part of the hundred and fifteen thousand pounds, granted by parliament for the colonies, having been allotted to Pennsylvania; and the residue, after paying such debts as had been contracted since the expenditure of the fifty-five thousand pounds, was destined for the current service, as the managers appointed by the said act, with the consent and approbation of the governor, and not otherwise, should direct.

When the said bill was presented to the governor, he made use of the answer of course, that he would give it all the dispatch in his power; but afterwards he gave them notice by message, that difficulties had arisen; and that he desired a conference with a committee of the house, in order to a discussion of them.

A committee was ordered accordingly; at which (Sept. 13) the governor was pleased to express himself to the following purport, viz.

'That although, at the request of the house, he had laid the proprietary instructions before them with the utmost candour, yet he was surprized to find there was a clause in the bill now before him, whereby the surplus-money (if any) was to be in the disposition of the assembly, contrary to the said proprietary instructions; that the term for sinking the sum granted to the king's use was too long, and would depreciate the value of the currency; that so long a time was contrary to the sense of the ministry, and the spirit of the act of parliament, which restrains the eastern colonies from

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striking bills of credit for any longer term, even upon the most pressing emergencies, than five years only; that in the report of the board of trade on the act passed by this assembly for granting sixty thousand pounds to the king's use, the chief reason their lordships urged for not advising his majesty to disallow that act, was the shortness of the time for sinking the same; and that there were many ways to sink the sum granted to the king's use, by the present bill, without extending the excise for so long a time.'

At the request of the committee he also gave them the heads of his objections in writing; namely,

1. To the length of the term of twenty years for sinking the said sum, as it might endanger the entire loss of the currency; and as the lords of trade had assigned the shortness of the time prescribed in the sixty thousand pounds act, as their reason for advising his majesty to give his assent to it. 2. To the disposition of the surplus-money by the assembly alone. 3. To the subjecting the ten thousand pounds given as a contribution to the general fund, to the order of lord Loudon only, and not of the commander in chief for the time being. 4. To the application of any part of the money to the discharge of the ten thousand pounds given for the use of the Crown-point expedition, as the said sum was issued upon a fund already established.

His other objections, being of a less general nature, need not to be specified. And in the close of all, that he might be thoroughly understood, he farther chose to express himself as follows; to wit, "that he had had several applications made to him from the frontier, requesting the aid of the legislature in their present distressed circumstances; that the eyes of the neighbouring colonies were upon them; and above all, that the nation of England were in expectation of their granting the necessary supplies for the king's service; that he was sorry to find the first bill offered to him should be such as he could not pass; and that he hoped they would so conduct themselves, as that he might make a favorable representation of their conduct to his majesty."

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The house, on the other hand, having taken these objections into consideration, appointed a committee to collect the sense of the house in answer to them, which upon the report was approved, and sent up to the governor by the committee of conference.

And this answer, so far as regards the objections above stated, can be given in no terms so apposite as their own, viz.

'1. The house chose, at this time, an excise bill rather than a land-tax bill, to avoid any dispute about taxing the proprietary estate, and because, as it was a mode of raising money they were used to and understood, the bill might more speedily be formed and brought to effect, so as to answer the present pressing emergency; and being in the same form with a number of preceding excise bills, that had been passed by former governors, gone through the offices at home, and received the royal assent; they well hoped it might meet with no objections.

'The last time it passed, the term was ten years. No inconvenience arose from the length of that term. Could we have sunk the sum we wanted by the excise in that term, we should not desire to extend it. But we expect it will not yield more in twenty years than the sixty thousand pounds granted. The act of parliament made for the eastern colonies, is not in force here. Had the parliament thought it fit that this province should be governed by that act, they would not have excluded Pennsylvania out of the bill, as they actually did. Governor Hamilton had formerly offered to extend the excise to any term, during which we would load it with three thousand pounds per annum, granted to the crown. From whence we concluded the term of twenty years would not be objected to, sixty thousand pounds being granted.

'Other taxes or excises on other consumptions might possibly be laid, but we have no experience of them; they will require a time of more leisure to be well considered, and laws for collecting them properly formed, so as to be effectual, and not injurious to our trade. If this war continues, we may soon want them all; and the succeeding assembly may take those matters in hand immediately after their meeting.

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so as to have such new excises ready before the money now granted is expended; though we still think a well proportioned tax on property, the most equal and just way of raising money.

'If every man who received our bills of credit in payment, was obliged to keep them in his hands till the end of twenty years, to be sure the length of the term would occasion a proportionable depreciation. But they being a legal tender in all payments, and the possessor able to exchange them immediately for their value, it is not length of term, but excess of quantity, that must occasion their depreciation; and that quantity is by this bill yearly to diminish. Besides, the eighty thousand pounds we have out on loan, is now to sink in the next six years, which will greatly lessen our currency, and consequently lessen the danger of the depreciation.

'If the quantity should prove too great, which we believe it will not, a subsequent act, laying excise or duty on other commodities, encreasing the duty per gallon, raising it also from private consumption, or obtaining money by any other means for the public service, may be made, and the money applied to the more speedy sinking this sixty thousand pounds.

'2. There will probably be little or no surplus left to the disposition of the assembly. People now leave the province faster than they come into it. The importation of Germans is pretty much over. Many go from us to settle where land is cheaper. The danger attending frontier settlements will probably be long remembered, even after a peace may be restored. And if our inhabitants diminish, the excise will be lessened instead of being increased. At its best, it produces, *communibus annis*, not more than three thousand pounds per annum.

'In former excise laws the assembly have had the disposition of the whole. They preserved the public credit; paid all public debts punctually every year; and have not abused the trust reposed in them.

'The instruction is not a royal but proprietary instruction, calculated to establish arbitrary government among us, to

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distress the assembly and people, and put it out of their power to support their complaints at home. It would, moreover, deprive us of a just right and privilege, enjoyed from the first settlement of the country.

'3. Lord Loudon is a nobleman distinguished by the great trust the crown hath placed in him. We have likewise received a high character of his integrity and uprightness, which induces us to confide in him. The chance of war (which heaven prevent) may, after several removes, give him a successor unknown to us. If it should be found necessary and convenient before the money is expended, the governor and assembly can at any time, by a little act, subject the remainder to the order of his successor, the commander in chief for the time being.

'4. It is true, there was a fund appropriated to sink the notes issued for the grant to the Crown-point expedition. That fund in a great measure fails by the loss of one whole county to the enemy, and the abandoning considerable parts of other counties, where lands mortgaged to the loan-office are situated. The whole sum was appropriated to the king's service. And if those notes had not been issued, that assistance could not have been given, as our affairs were then circumstanced. They cannot be redeemed in due time by that fund, without adding to the distresses of the people, already too great; and the public credit ought to be kept up, as it may be wanted on some future emergency. Besides, those notes bear interest, and at this time the province is less able than ever to pay interest. We should now save money by all means in our power.'

'10. The fund appropriated for sinking the five thousand pounds, given for the Canada expedition, was broke in upon by the late extraordinary demands for public money. Five thousand pounds was given in provisions to general Braddock, and near four thousand pounds more to cut a road for the king's service at the instance of that general; besides large sums for the maintenance of Indians, extraordinary and expensive treaties, &c. not expected or foreseen when the

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fund was laid. It may therefore fall short, and the outstanding debts not pay the whole; but, however, the public credit ought to be supported; and the new laid excise is the most proper fund to supply deficiencies in the old.

'The house cannot be supposed insensible of the distresses of their fellow-subjects on the frontiers. Several of the members reside there. They hoped they had in this bill provided for those people the means of speedy assistance, and avoided all objections. They see none now of importance enough, in their opinion, to prevent the passage of the bill. They grant the money freely to the king's use, and cannot admit of amendments to a money-bill; they therefore persuade themselves, that the governor will consider the present circumstances of the province, and the consequences of dispiriting the inhabitants, by depriving them at this time of their privileges, without which they would think the country scarce worth defending; and that he will not suffer a proprietary instruction, new, unjust, and unseasonable, to deprive his majesty of a grant so large, so freely given, and so necessary for his service; and for the preservation of the proprietary estate, as well as the securing the lives and fortunes of the inhabitants, who promised themselves great happiness in being placed immediately under his care and protection.'

The kings of Great Britain have a negative on laws as well as the deputy-governors of Pennsylvania; but then they use it as rarely as possible; and when they do, they rather demur than refuse; but the deputy-governor of Pennsylvania, having no such managements to observe, thought the peremptory style the best; and so sent down the secretary with a verbal message, which is entered in the minutes of the province in these words:

'Sir, the governor returns the bill, intitled, 'an act for striking the sum of sixty thousand pounds, in bills of credit, and giving the same to the king's use, and for providing a fund to sink the bills so to be emitted, by laying an excise upon wine, rum, brandy, and other spirits.' And his honor commands me to acquaint the house, that he will not give his assent to it; and, there being no person to judge between the

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governor and the house in these parts, he will immediately transmit to his majesty his reasons for so doing.'

The remainder of that day (the 15th) as it may be surmised, was wasted in a vain discussion of the difficulties they were involved in; for the house broke up without coming to any resolution. The next was a blank likewise; no business was done; but, on the third, having resumed the consideration of the governor's objections to their bill, the committees report thereupon, the governor's verbal message refusing his assent to the said bill, and the proprietaries instructions, prescribing to the representatives of the freemen of the province, the modes of their raising money for the king's service, they came to the following resolutions, to wit:

'That the said proprietary instructions are arbitrary and unjust, an infraction of our charter, a total subversion of our constitution, and a manifest violation of our rights, as free-born subjects of England.

'That the bill for granting sixty thousand pounds to the king's use, to which the governor has been pleased to refuse his assent, contains nothing "inconsistent with our duty to the crown, or the proprietary rights," and is agreeable to laws which have been hitherto enacted within this province, and received the royal approbation.

'That the right of granting supplies to the crown is in the assembly alone, as an essential part of our constitution, and the limitation of all such grants as to the matter, manner, measure, and time, is only in them.

'That it is the opinion of this house, that the many frivolous objections, which our governors have been advised from time to time, to make to our money-bills, were calculated with a view to embarrass and perplex the representatives of the people, to prevent their doing any thing effectual for the defence of their country, and thereby render them odious to their gracious sovereign, and to their fellow-subjects, both at home and abroad.

'That the proprietaries encreasing their restrictions upon the governor, beyond what they had ever done before, at a

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time when the province is invaded by the king's enemies, and barbarous tribes of Indians are ravaging the frontier settlements; and their forbidding the passing of any bills whereby money may be raised for the defence of the inhabitants, unless those instructions are strictly complied with, is tyrannical, cruel, and oppressive, with regard to the people, and extremely injurious to the king's service; since, if the assembly should adhere to their rights, as they justly might, the whole province would be thrown into confusion, abandoned to the enemy, and lost to the crown.

'The house, reserving their rights in their full extent on all future occasions, and protesting against the proprietary instructions and prohibitions, do, nevertheless, in duty to the king and compassion for the suffering inhabitants of their distressed country, and in humble but full confidence of the justice of his majesty and a British parliament, wave their rights on this present occasion only; and do further resolve, that a new bill be brought in for granting a sum of money to the king's use, and that the same be made conformable to the said instructions.'

By this new bill, both the sum and the time was reduced one half; that is to say, the sum to thirty thousand pounds, and the time for raising it, by excise, to ten years. The bill was immediately prepared and read, and the next day was sent up to the governor, who, on the 20th, condescended to signify, that he was ready to pass the same into a law, provided, a clause therein relating to the fines and forfeitures, being paid into the treasury, was first struck out; which, on account of the present exigency of affairs, having been also agreed to by the house, the said bill was, on the 21st of September, passed accordingly into a law.

Under these circumstances, in this manner, and for these considerations, had governor Denny the honor to extort this proprietary sacrifice from these honest, considerate, able, spirited men, who had stood in the gap for so many years, and who had never been driven out of it, if it had been possible for them to have saved their country and its constitution too.

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To the cruelty of the conjuncture alone they gave way; not to any superiority of reason in their adversaries, nor through any failure of integrity or fortitude in themselves.

Of this a sufficient testimonial remains still to be given out of their minutes; wherein are to be found (and it is to be hoped will for ever remain) the remarks of the committee, by order of the house, on the proprietaries instructions, already before the reader, which contain as full a vindication of themselves and their conduct, as is in the power of thoughts and words to express; and consequently as full an exposition of the claims and demands brought against them.

Too long, however, is this performance to be given in the entire; more especially in the close of so long a narration; and too significant is it to admit of any abridgment; to the appendix, therefore, the reader must be referred, if he has a curiosity to see it; where it is lodged, as a requisite, without which neither his entertainment nor his information could be complete.

It will suffice to say in this place, that it was unanimously approved of and agreed to by the house; and that the house was unanimous also in resolving "that it was highly necessary, a remonstrance should be drawn up and sent home, setting forth, the true state of Pennsylvania, and representing the pernicious consequences to the British interest, and to the inhabitants of that province, if contrary to their charters and laws, they were to be governed by proprietary instructions."

The true state of Pennsylvania is now before us. It is apparent the assemblies of that province have acted from the beginning on the defensive only; the defensive is what every man, by the right and law of nature is intitled to. Jealousy is the first principle of defence; if men were not to suspect, they would rarely, if ever, be upon their guard. *Magna Charta* is apparently founded upon this principle; nay, provides, that opposition should be always at hand to confront and obviate danger. Penn, the founder of the colony, founded it upon *Magna Charta;* and, as we have seen, the birthrights of his followers were rather enlarged than

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diminished by his institutions. That the latter part of his active life, therefore, was employed in undermining his own foundations, only serves to excite our concern, that so few should be of a piece with themselves; and to make him answerable in part for the trespasses of his heirs.

Fatally verified, however, we see, both there and every where else, the fable of the ax, which having been gratified with as much wood only as would serve it for a handle, became immediately the instrument to hew down the forest, root and branch, from whence it was taken.

It is as apparent, on the other hand, that these proprietaries have acted an offensive part; have set up unwarrantable claims; have adhered to them by instructions yet more unwarrantable; have availed themselves of the dangers and distresses of the province, and made it their business (at least their deputies have) to increase the terrors of the times, purposely to unhinge the present system; and, by the dint of assumptions, snares, menaces, aspersions, tumults, and every other unfair practice whatsoever, would have either bullied or wheedled the inhabitants out of the privileges they were born to; nay, they have actually avowed this perfidious purpose, by avowing and dispersing those pamphlets in which the said privileges are insolently, wickedly, and foolishly pronounced repugnant to government, the sources of confusion; and such as, having answered the great end of causing an expeditious settlement, for which alone they were granted, might be resumed at pleasure, as incompatible with the dictatorial power they now challenge, and would fain exercise.

And this being the truth, the plain truth, and nothing but the truth, there is no need to direct the censures of the public; which, on proper information, are always sure to fall in the right place.

The parties before them are the two proprietaries of a province and the province itself. And who or what are these proprietaries? in the province, unsizeable subjects and unsufficient lords. At home, gentlemen, 'tis true, but gentlemen so very private, that in the herd of gentry they are

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hardly to be found; not in court; not in office; not in parliament.

And which is of most consequence to the community; whether their private estate shall be taxed, or the province shall be saved?

Whether these two private gentlemen, in virtue of their absolute proprietaryship, shall convert so many fellow-subjects, born as free as themselves, into vassals? or, whether so noble and useful a province, shall for ever remain an asylum for all that wish to remain as free as the inhabitants of it have hitherto made a shift to preserve themselves?

Sub judice lis est.

What part the offices here at home have taken in this controversy, it will be time enough to specify when 'tis over; and appeals respectfully made argue a presumption, that right will be done.

But one circumstance more, therefore, remains to be added in behalf of this persecuted province, which is the testimonial of commodore Spry, contained in the following extracts from two of his letters to one Mr. Lovel, a gentleman of Philadelphia, and by him communicated to the speaker of the assembly, to wit:

'August 5, 1756.

''Tis impossible to conceive how much I am obliged to the gentlemen of Pennsylvania for their ready concurrence in supplying his majesty's ships in North America with such a number of seamen, at their government's expence; and I must entreat you to make my most grateful acknowlegments to your speaker, and the rest of the gentlemen concerned in it.'

'August 7, 1756.

'I have joined Mr. Holmes, and we are now under sail, with a fair wind, for Louisburg. Last night a ship luckily arrived with twenty-nine seamen more from the people of your good province; God bless them! I shall ever gratefully remember and acknowledge it. I have the seamen all on board my own ship, except four that are sick at the hospital.'

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APPENDIX.

CONTAINING

SUNDRY ORIGINAL PAPERS,

Relative to the several points of controversy between the Governors and Assemblies of Pennsylvania.

TO THE

HONORABLE THOMAS PENN AND RICHARD PENN,

Proprietaries of the Province of Pennsylvania, &c.

The Representation of the General Assembly of the said Province, met at Philadelphia, the twenty-third day of the sixth month, 1751.

May it please the Proprietaries:

THE first settlers of this province unanimously concurred with your worthy father, to lay the foundation of their settlements, in doing justice to the native Indians, by coming among them as friends, upon an equitable purchase only: this soon appeared to be the best and safest way to begin the infant settlement, by the veneration and love it procured from those people, who kindly supplied the wants of many, then destitute of the necessaries of life; and, as the settlements increased, retired to make room for their new guests, still preserving that esteem and veneration which had been so strongly impressed upon their minds. By this voluntary retreat, all were satisfied, for there was room enough for all; and the good faith so carefully kept with those who were nearest, gave the more distant Indian nations that favorable opinion of us, which our continuing to act on the same principles of justice hath supported to this day; they entered freely into our alliance; they became the guards of our frontiers against the French, and French Indians, by obliging them to observe a neutrality towards us, as we experienced during the course of the last war; and we have reason to think we now share largely in their affections. But this beneficial friendship hath neither been procured nor continued without a very great expence

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to the people of this province, especially for some years past, wherein we find the assemblies opened their hands liberally to all the purposes of peace, among those who could best, under God, preserve our distant settlements against the depredations of an active and powerful enemy; without strictly enquiring at that time, how far the people alone ought to bear the burden of those expences. But as that burden became yearly more and more heavy, the assemblies were naturally led to request the assistance of the proprietaries, and we hoped an application so apparently reasonable might have their approbation. We are therefore much concerned to receive an answer so different from our expectations, in which the proprietaries are pleased to say, 'that they do not conceive themselves under any obligation to contribute to Indian or any other public expences, even though taxes were laid on the people for the charges of government; but as there is not one shilling levied on the people for that service, there is the less reason for asking any thing of them. Notwithstanding which, they have charged themselves with paying to the interpreter, much more than could be due to him on any treaties for land, and are at this time at the expence of maintaining his son, with a tutor, in the Indian country, to learn their language and customs for the service of the province, as well as of sundry other charges on Indian affairs. That they have been at considerable expence for the service of the province, both in England and here; that they purchase the land from the Indians, and pay them for it; and that they are under no greater obligation to contribute to the public charges than any other chief governor of any of the other colonies.'

Upon which we beg leave respectfully to represent to our proprietaries, that the preserving a good understanding with the Indians, more particularly advances the interest and value of the proprietary estate than that of any other estate in the province, as it gives the proprietaries an opportunity of purchasing at a low price, and selling at high rates, great tracts of land on the frontiers, which would otherwise be impracticable. That therefore, though they may conceive themselves under no obligation by law, they are under the much stronger obligations of natural equity and justice, to contribute to the expence of those Indian treaties and presents, by which that good understanding, so beneficial to them, is maintained. That although formal taxes have not been laid in this province during some years past, for the support of the proprietaries lieutenant-governor, and defraying the charges of Indian treaties, yet the interest of our paper-money is a virtual tax on the people, as it arises out of, and is paid by, their labour, and our excise is a real tax, yielding about three thousand pounds per annum, which is principally expended in those services, besides the tax of licences of various kinds, amounting to considerable sums yearly, which have been appropriated wholly to the support of the governor. That the assemblies of this province have always paid the accounts of our Indian interpreter for his public services to his full satisfaction; and we believe future assemblies will not fail to do, in that respect, what may reasonably be expected from them, when his son shall be thought qualified to succeed him. Nor

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do we doubt their discharging all just debts, for expences properly chargeable to the province, whether made here or in England, whenever the accounts are exhibited. We are nevertheless thankful to our proprietaries for their care in our affairs, and their endeavours to provide a well qualified successor to our present interpreter, as such a one may be of service to the public, as well as to the private interests of their family.

We would farther entreat our proprietaries to consider, that their great estate not lying in Britain, is happily exempt from the burdens borne by their fellow-subjects there, and cannot, by any law of ours, now in being, be taxed here. That therefore, as they are not obliged, on account of that estate, to bear any part of the charge of any war the British nation may be involved in, they may with us more freely contribute to the expence of preserving peace, especially on the borders of their own lands, as the value of those lands so much depends upon it.

We beg leave further to observe to our proprietaries, that the act forbidding all others to purchase lands of the natives, establishes a monopoly solely in their favor; that therefore they ought to bear the whole charge of treaties with the Indians for land only, as they reap the whole benefit. And that their paying for land (bought, as we conceive, much the cheaper for the provincial presents accompanying those treaties) which land they sell again to vast advantage, is not a satisfactory reason why they should not bear a part of the charge of such other treaties, as tend to the common welfare and peace of the province.

Upon the whole, since the proprietaries interests are so constantly intermixed, more or less, with those of the province, in all treaties with our Indian allies; and since it appears that the proprietaries think they already pay more than their share, and the people (who have disbursed near five thousand pounds within these four years, on those occasions) think they pay abundantly too much; we apprehend that the surest way to prevent dissatisfaction on all sides, will be, to fix a certain proportion of the charge of all future provincial treaties with the Indians, to be paid by the proprietaries and province respectively; and this, we hope, they will on further consideration agree to, not only as it is in itself an equitable proposal, but as it may tend to preserve that union and harmony between the proprietaries and people, so evidently advantageous to both.

Signed, by order of the house,

ISAAC NORRIS, SPEAKER.

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THE

Proprietaries Answer,

TO THE FOREGOING

REPRESENTATION

OF THE

House of Representatives.

Laid before the house, May 23, 1753.

REPORT

ON THE

Proprietaries Answer, &c.

In obedience to the order of the house, your committee have considered the representation made by a former assembly to the proprietaries, concerning Indian affairs, with their answer delivered to this house; and since all further application to the proprietaries on the subject of that representation is now forbidden, and they seem to require that their answer should be put on the minutes of assembly, we are of opinion that the representation not hitherto made public should accompany it, with such of the following remarks made on each paragraph of the said answer as the house shall think proper.

GENTLEMEN,

1. *THE true and real interest of the people whom you represent is, as it ought to be, the principal object of our concern; we shall, on all occasions, shew them that we have it constantly in view; we will use our utmost endeavours to procure it, at the expence of our own private fortunes, whenever it appears to us necessary; and, in considering the matter of your representation, shall endeavour to act such a part as would be thought just, by persons wholly disinterested, both with regard to us and them.*

1. ON the first paragraph of the answer, we shall just observe, that the declaration it contains is a noble one, and worthy of the rank our proprietaries hold among us; we only wish that in the present case they had thought fit to give a proof of the sincerity with which it is made, such as would have been satisfactory to others, since our assemblies are esteemed interested judges.

2. *That the representatives of the people are not so disinterested, seems most certain; wherefore, supposing they saw this matter in a light very different from that in which it appears to us, and that they were not actuated by any inclination on the one hand to oppose our interest, or on the other to influence the weaker part of the electors by appearing zealous for theirs (which we would trust and hope is the case) yet we may continue to differ in sentiments from them on the necessity of the de-*

2. The insinuation in the second paragraph, as if the assembly were actuated by an inclination to oppose the proprietary interests, we look upon to be injurious; and as groundless as the other supposition, that the members might have in view their future election, of which we shall take farther notice when we come to the sixth paragraph, where it is again repeated. No instance can be given of that assembly's opposing, or attempting to oppose, the proprietary

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sired assistance, without being liable to any imputation of neglecting the interest of the province in the opinion of the world.

interest. It rather appears that they thought they were consulting those interests in the very point in question, if it be consistent with the proprietary interest to have a good understanding with the people; since the representation expressly proposed a method of preventing misunderstandings for the future.

3. *After we had ordered our governor to give you the answer, which he did, to your former application, we had no reason to expect a repetition of the application directly to ourselves; as you might well suppose we had considered the matter before we had returned our first answer, and the repeating the request could only produce the repeating the answer; the occasion for which does not appear to us. It is possible, that one purpose may be, in order to shew, more publicly, this difference in opinion between us and yourselves; and if that was ever intended, it will be convenient that we should set this matter in a clear light (although it may make our answer longer than we could wish) that the true state of the matter may appear.*

3. In the third paragraph, the representation is treated as a mere repetition of a former application, and therefore improper, as "repeating the request could only produce the repeating the answer;" but the representation appears to your committee to contain, not only a repetition of the request, but new reasons in support of it, and answers to such as had been given for refusing it. And such a repetition of an application we think justifiable in all cases; except where we can be sure that the first thoughts of the persons applied to, are infallibly right; or if wrong, that they are incapable of hearing reason.

4. *We did not speak our own sentiments only when we before said, we were under no greater obligation to contribute to the public charges than any chief governor of another colony; that was the opinion of the lords of trade, when, upon an application made to the king, by many considerable inhabitants of the province, that he would be pleased to give some orders for their defence; the counsel, employed by the agent of the house of representatives, insisted, that, if any such preparations were necessary, the proprietaries ought to be at the expence of them; but their lordships declared it their opinion, that we were not obliged to be at any expence of that*

4. With regard to the opinion said to be declared by the lords of trade, "that our proprietaries were no more obliged to contribute to public charges than any other governor in chief of the king's colonies;" your committee presume to suppose their lordships could only mean, that as governor in chief the proprietaries were not obliged by law; and not, that as proprietaries they were not obliged in equity. The latter is the point at present in dispute between the proprietaries and people of Pennsylvania, though in this paragraph evaded. The assembly mention no other obligation but such as in their opinion

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nature, more than any other governor in chief of the king's colonies.

arises from reason and justice; they humbly submit their reasons to the proprietaries consideration, and from their equity only, they hope a compliance with the request. The position understood as the proprietaries would understand it, must as well hold good among the governed as the governors of the colonies; for should the wealthiest inhabitant say, he ought to pay no more towards public charges than any other inhabitant, he would be right, considering him merely as an inhabitant; but as a possessor of property, he would be wrong; and therefore laws are made, obliging such as would not otherwise be just, to pay in proportion to their substance.

5. We are sensible that our honored father, in the first settlement of the province, and at all times after, was strictly careful to do justice to the Indians, and purchased land from them before it was settled; but, we believe, always at his own charge; at least we do not find a single instance of a purchase having been made at the expence of the people. So that what share they had in such purchases, we are at a loss to know, other than the benefits and conveniencies which arose from the mutual exchange of friendly offices with the natives.

5. The fifth paragraph seems intended to combat an assertion, that the purchases from the Indians were made with the people's money. As we find no such assertion in the representation, we do not think it necessary at present to enquire how far, or in what instances, the people have had a share directly or indirectly in any such purchases. The representation only intimates, that the house conceived, treaties for the purchase of land were made on more reasonable terms to the proprietaries for the provincial presents accompanying such treaties; and that this was an additional reason why the proprietaries should bear a proportionable part, at least, of the expence of such presents; since, besides their share of "the common benefits and conveniencies, which arise from the mutual exchange of friendly offices with the Indians," they reap a particular advantage to themselves, and that a very considerable one. This reason we apprehend is not answered in the present paragraph; it is only evaded, by changing the state of the question. A subtlety, in our opinion, unworthy the dignity of the proprietaries and chief governors of a province.

6. Had the necessary public charges amounted to more than the revenue of the province, and a general tax been laid on the people to defray the same, there might then have been some colour to desire that we should contribute; but as no such tax has, for very many years, been or need to be laid, and the charge of government amounts to little

6. On the sixth paragraph we would observe, that the request to the proprietaries, that they would be pleased to bear a part of Indian expences, was founded on the supposed equity of the case; and that they would consent to settle the proportion to be paid by them, was proposed as a means of preventing dissatisfactions

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more than the one half of the common and ordinary revenue, the pressing thus unseasonably for our contribution, appears, we conceive, as an attempt to induce the weakest of the people to imagine yourselves to have an uncommon regard to their interests, and to be therefore the most proper persons to be continued as their representatives; and the matters which might the rather induce us so to think, are the solemn repetition of this request, and treating it as if it was a matter of great value and consequence; the time of making your last representation, just before an election; and the printing the report, and most extraordinary resolutions, which were the foundation of such your representation, in your votes, long before your address could, by any possibility, come to our hands; which are such matters as could not escape our observation, and which would almost persuade us, that it was intended as an address to the people, rather than to us.

between them and the people. To these points, this paragraph only answers, that the people are able enough to pay these expences without the assistance of the proprietaries. This likewise seems to be starting a new question, and one that is beside the present purpose; for though it were true that the people are able to pay, it does not follow that they should therefore pay unjustly, nor is it likely that they will be pleased and satisfied with so doing, for such a reason. The proprietaries are likewise able to pay, they have revenue enough, but they do not think this a sufficient reason even to pay a part; why then should it be thought sufficient to induce us to pay the whole? the charge contained in this paragraph, "that the application was only an attempt to induce the weakest of the people to imagine the house had an uncommon regard to their interests, and were therefore the most proper persons to be continued their representatives at the ensuing election;" your committee think an absolute mistake, and unsupported by the least degree of probability. For there had not been for some years, nor was there expected to be, nor has there since been, any contest at elections between the proprietary and popular interests; nor if there had, would it have been necessary to take such measures, the proprietaries having, of late years, no formidable share of the people's love and esteem. Nor was the supposed address in fact made to the people; for the representation has never yet been published; nor were the votes containing those resolutions published till after the election was over. Nor is the situation of an assembly-man here so advantageous, as to make it worth his while to use artifice for procuring a re-election; for when the smallness of the allowance, the expence of living, the time he is absent from his own affairs, and other inconveniences are considered, none will suppose he can be a gainer by serving the public in that station.

7. *Wherefore, on this occasion, it is necessary that we should inform the people, through yourselves, their representatives, that as, by the constitution,*

7. But whether assembly-men may or may not expect any gainful advantages from that station, we find our chief governors informing us in

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our consent is necessary to their laws, at the same time that they have an undoubted right to such as are necessary for the defence and real service of the country; so it will tend the better to facilitate the several matters which must be transacted with us, for their representatives to shew a regard to us and our interest: for, considering the rank which the crown has been pleased to give us in Pennsylvania, we shall expect from the people's representatives, on all occasions, a treatment suitable thereto; and that, whilst we desire to govern the province according to law only, they should be as careful to support our interests, as we shall always be to support theirs.

pretty plain terms, in the seventh paragraph, that they themselves are not without such expectations from theirs; they tell us, "their consent is necessary to our laws, and that it will tend the better to facilitate the matters which must be transacted with them, for the representatives to shew a regard to their interest." That is, as we understand it, though the proprietaries have a deputy here supported by the province, who is or ought to be fully impowered to pass all laws necessary for the service of the country, yet, before we can obtain such laws, we must facilitate their passage, by paying money for the proprietaries, which they ought to pay, or in some other shape make it their particular interest to pass them. We hope, however, that if this practice has ever been begun, it will never be *continued* in this province; and that, since, as this very paragraph allows, we have an undoubted right to such laws, we shall be always able to obtain them from the goodness of our sovereign, without going to market for them to a subject.

Yet however easy it may be to understand that part of this paragraph which relates to the proprietaries interest, your committee are at a loss to conceive why, in the other part of it, the people are to be acquainted, "that the crown has been pleased to give the proprietaries a rank, and that they expect from the representatives a treatment suitable thereto." We cannot find on perusing the representation in question, that it contains any treatment unsuitable to their rank. The resolve of the house was, that to prevent dissatisfaction on all sides, they should be requested, in the most reasonable and most respectful manner, to agree upon a proportion of Indian charges to be paid by them and the province according to justice; and it may be submitted to the judgment of all impartial persons, whether the representation drawn in pursuance of the resolve, was not both reasonable in itself, and respectful in the manner. It was not, as the proprietaries represent it, an address to the public. It is not to this day made public. It was a private application to themselves, transmitted to them through the hands of their governor. Their true interest (which they will always find to consist in just, equitable, and generous measures, and in securing the affections of their people) was consulted in it; and one suitable means proposed to obtain that end. As to rank, the proprietaries may remember, that the crown has likewise been pleased to give the assemblies of this province a rank; a rank which they hold, not by heredita-

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ry descent, but as they are the voluntary choice of a free people, unbribed, and even unsolicited. But they are sensible that true respect is not necessarily connected with rank, and that it is only from a course of action suitable to that rank they can hope to obtain it.

8. *We are truly concerned, that you lay us under the necessity of acquainting the public with the state of the revenue of the province; you have in part, done it already, by acknowleging the amount of the excise to be three thousand pounds a year. The interest of the paper money, as we conceive, is more than that sum, which makes the common revenue of the province above six thousand pounds a year; the annual expence of government for a series of years (including Indian charges) amounts to little more than half that sum; the interest is paid by people who, no doubt, find greater advantage in the use of the money than the interest they pay for it, otherwise they would not be so solicitous to be admitted to borrow as they always have been. That interest money therefore cannot, with any propriety be called a tax laid on the province, or a burden on the inhabitants. The excise itself is not a general tax, to which all the inhabitants must contribute, as it is paid by such only who buy wine and spirituous liquors, under certain quantities; so that many people pay nothing of that tax. Of all this revenue, about four hundred pounds a year has, on an average, for twenty years past, (and great part of that time during war) been expended in presents to the Indians, and charges on their account; which we cannot conceive to be a large sum, in proportion to the revenue of the province, for so great and important a service as that of keeping the united nations of Indians in the interest of Great Britain; we believe every disinterested person will*

8. Your committee are quite surprized at the concern the proprietaries are pleased to express in their eighth paragraph, on their being, as they say, laid under a necessity of acquainting the public with the state of the revenue of the province; as if the state of that revenue had ever been a secret; when it is well known, and the proprietaries themselves know, that the public accounts are yearly settled, stated, printed, and published by the assembly, and have been so for these thirty years past. Whatever private reasons the proprietaries may have to make a secret of their revenue, we know of none to make one of the revenue of the province, nor has it ever been attempted. Their following observations, concerning the nature of our taxes, and the distinction between general and particular taxes, seem to your committee not so just and accurate as might be expected; for we cannot conceive, that the willingness of people to subject themselves to the payment of interest or excise, by taking money on loan, or consuming spirituous liquors, makes either the one or the other less a tax. The manner of laying a tax, the easy method of levying it, and the benefits arising from the disposition of it, may all tend to induce people to pay it willingly; yet it is still a tax. And indeed all taxes ought, upon the whole, to produce greater good to a people, than the money kept in their pockets could do; in such case, taxes are no burdens; but otherwise

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think the sum very small, and, from the manner of its being raised, not at all burdensome to the people; besides which, had not half that money been expended on these accounts, it is most certain all the same excise would have been paid.

they are. Taxes, seemingly particular, are also more general than they are often supposed to be: the laboring man must live: excise the materials of his subsistence, and he generally finds means to get more for his labour.

After estimating our whole present revenue, as if it had been the same for twenty years past, and would certainly continue, though the proprietaries know it depends on temporary acts near expiring, the renewal of which is at best dubious, they conclude that four hundred pounds a year for Indian expences is a small sum, and that we are under no necessity of being frugal, on this account, of the public money. This four hundred a year is the sum that they find has been paid on an average for twenty years past, and they take no notice of its being a growing charge, and that for the four last years before the representation, it amounted to near twelve hundred a year, which we conceive disinterested persons will think a very large sum; and although the same excise might have been raised, if not half that money had been expended, it does not seem to us to follow, that the proprietaries ought not to have paid their just proportion of it. If the sum be small, their proportion of it must have been smaller; and the money so saved might have been applied to some other use, beneficial to the public; or have remained ready in the treasury for any emergency.

9. *The whole sum paid, in twenty years, for Indian services, is not more than, on a common computation, our family has paid, in the same time, for duties and excises here, for the support of his majesty's government; and which we choose to mention, in answer to that part of your representation, wherein you, unadvisedly, publish to the world, that our estate in America, is exempted from the burdens borne by our fellow-subjects in Great Britain; such matter might much more properly have been avoided; and at the same time that we shew you, that we do pay all other taxes here, that on land only excepted, we must advise you to be very careful, not to put people here in mind of that single exemption. Several proposals have been made for laying taxes on North America, and it is most easy to fore-*

9. On the ninth paragraph your committee will only observe, that the people of Pennsylvania do likewise pay duties and excise for the support of his majesty's government; and other taxes, which, considering their ability, are perhaps proportionably equal to those paid by the proprietary family, or any other subjects in England. We pay indeed as much as an infant colony can well bear, and we hope and believe the justice of a British parliament will never burden us with more. The proprietaries exemption was not published till now at their own instance. It was made use of as a private motive to themselves only, in the representation.

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see that the self-same act of parliament that shall lay them on our, will also lay them on your estates, and on those of your constituents.

10. *We cannot allow that you have always paid your interpreter to his satisfaction, because we know we have charged ourselves with gratifications to him, when the assembly has refused to pay him what he thought his services deserved; and we make no doubt he can remember such instances; however, with respect to any expences of that sort, and many others here, we entered into them without any expectation of being repaid, and should think it far beneath us to send the accounts of them to the house of representatives, as your agent, employed by yourselves, might do for the expences incurred by him. What we might reasonably expect, is, a thankful acceptance of our endeavours to serve the public; and if you do not think proper to make even that return, we shall, nevertheless, be fully satisfied with the consciousness of having rendered the province all the services in our power.*

10. On enquiry, we have reason to believe that the interpreter's bills of charge against the province, have always been allowed and paid; and where his accounts have contained blank articles for his services, he has been asked what would satisfy him, and the same has been allowed. We suppose the instances alluded to, wherein the assembly did not fully satisfy him, must have been such as the proprietaries were concerned in by the purchase of lands, and a part might accordingly be left for them to pay. We believe our assemblies always have been, and we hope always will be, ready to acknowlege gratefully any services rendered to the public by the proprietaries; and not merely to acknowlege them, but to make adequate returns.

11. *We do not conceive that any act of assembly does, or can establish, what you call a monopoly in us for the purchase of lands; we derive no right or property from any such law. It is under the king's royal charter that we have the sole right to make such purchases; and it is under that same charter, that every settler has a right, through us, to the estate he possesses in the province. The act itself, which you seem to allude to, acknowledges this right to be so granted to us by the charter, and is only declaratory thereof to the people, advertising them of a certain truth, that they are liable according to the laws of Great Britain, to penalties for contravening such right.*

11. Whether the monopoly of lands, in favor of the proprietary, was established by the royal grant, or by acts of assembly, or by both, your committee do not think it material at this time to dispute, since the reasoning in the representation remains the same, viz. that those in whose favor such monopoly was erected, ought at least to bear a part of the expence necessary to secure them the full benefit of it.

12. *Your assertion that treaties for land are made at a less expence to us,*

12. In the twelfth paragraph, three things appear somewhat extraordi-

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on account of provincial presents being given at the same time, does not appear to us to be founded on fact; the last purchase was made on no other account, but purely to save the province the expence of making another present to some Indians who came down after the time that the principal deputation had received the presents intended for the whole, and were on their return back; and the land was bought very dear on that account. Other treaties for land have been made when provincial presents have not been given; and we do not, or ever did, desire, that the inhabitants should bear any part of the expence of Indians who came down solely at our request to consent to the sale of lands, unless they stay on other public business also; and whenever they have come down on both accounts, we are sensible the expence has been divided in a manner very favorable to the public.

nary to your committee. 1. That the proprietaries should deny that treaties for land are made at less expence on account of provincial presents accompanying them, which we think any disinterested judge would at least allow to be probable. 2. That they should say the last purchase was made on no other account, but purely to save the province the expence of a present; as if they had no occasion to purchase more land of the Indians, or found no advantage in it. 3. That to prove such purchases were not the cheaper on account of provincial presents accompanying them, they should give an instance in which, they themselves say, the purchase was the dearer for want of such presents. If purchases are dearer to the proprietaries when no provincial presents accompany them, does not this clearly confirm the assertion of the assembly, that they are the cheaper when there are such presents? and does it not prove what the proprietaries deny?

13. *We are far from desiring to avoid contributing to any public expence, which it is reasonable we should bear a part of, although our estate is not, by law, liable to be taxed. As we already have been, so we doubt not we always shall be, at a far greater expence in attending the affairs of the province, than our estate could be taxed at, if all the estates in the province were rated to the public charges, which would be the only fair way of establishing a proportion. If we were willing to consent to any such matter, the value of our estate, and of the estates of all the inhabitants, ought to be considered, and the whole expence proportionably laid upon the whole value; in*

13. It appears by their thirteenth paragraph that the proprietaries think the part they voluntarily submit to bear, and expect always to bear, of public expences, is greater than their proportion, equitably laid, would amount to. If this be so, and they are, as they say, "far from desiring to avoid contributing to any public expence, which it is reasonable they should bear a part of, although their estate is not by law liable to be taxed;" your committee are at a loss to conceive, why they should refuse, "to enter into any agreement for the payment of any particular proportion of Indian or other public expences," when such agreement might save

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which case you would find, that the expence which we voluntarily submit to, out of affection to the inhabitants, is much more than such our proportion so laid would amount to; besides these general expences, the first of us sent cannon at his own charge, to the amount of above four hundred pounds sterling, for the defence of our city of Philadelphia, neglected by a late house of representatives; which, alone, is such a sum as the proportion of a tax on our estate would not in many years amount to. And as this is the case, we are not disposed to enter into any agreement with the house of representatives for payment of any particular proportion of Indian, or other public expences, but shall leave it to them (to whom it of right belongs) to provide for such expences, as they shall judge necessary for the public service.

them money, and is proposed to prevent dissatisfactions, and to preserve union and harmony between them and the people; unless it be to shew their utter contempt of such union and harmony, and how much they are above valuing the people's regard.

The charge on former assemblies, that they neglected the defence of the proprietaries city, your committee cannot but think unkind, when it is known to the world, that they gave many thousand pounds during the war to the king's use, besides paying near three thousand pounds at one time, to make good the damages done to the masters of servants, by the irregular and oppressive proceedings of the proprietaries lieutenant; and that their not providing cannon to defend the city, was not from neglect, but other considerations set forth at large in the printed proceedings of those times, needless now to be repeated. At the same time it may be remembered, that though the defence of the proprietaries city, as they are pleased to term it, by batteries of cannon, was more their interest (we will not say duty) than any other person's whatsoever, and they now represent it as a thing so necessary, yet they themselves really neglected, and even discouraged it; while some private gentlemen gave sums nearly equal to that they mention, and many contributed vastly more, considering their circumstances, by which means those batteries were not only completed in season, but the defence of both town and country in that way provided for; whereas this boasted assistance of four hundred pounds worth of cannon, was sent, like Venetian succours, after the wars were over. Yet we doubt not, but the proprietary who sent them has long since had the thanks of those who received them, though we cannot learn that they ever were favored with any from him, for what they did and expended in defence of his share of the province property.

14. *As you desire to appear willing, on your parts, to ease your constituents of a small part of the Indian expence, by throwing it upon us, we shall, on our part, and hereby do recommend it to you, to give them a real and far greater relief, by taking off a large*

14. The fourteenth paragraph of the proprietaries answer seems calculated merely for the same design with which they charge the representation, viz. to amuse the weaker part of the people. If they are really disposed to favor the drinkers

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share of that only tax which is borne by them. As the general expence amounts to little more than three thousand pounds a year, we conceive it may very well be provided for out of the interest of the paper money, and one half of the present excise; especially if we shall be induced, from the state of your trade (which we expect soon to receive) to consent to an encrease of your paper-currency, this would ease the inhabitants of about fifteen hundred pounds a year, which would be felt by many of them, when they would not be sensible of the trifle you propose we should contribute to the public expences. We have directed the governor to consent to such a law when you shall think fit to present it to him.

of spirituous liquors, they may do it without a law, by instructing their lieutenants to abate half the licence fees, which would enable the retailers to sell proportionably cheaper; or to refuse licences to more than half the present number of public houses, which might prevent the ruin of many families, and the great increase of idleness, drunkenness, and other immoralities among us.

15. *As we shall ever in the first place endeavour to promote the real interests of the good people of Pennsylvania, we make no doubt of preserving an union and harmony between us and them, unless men of warm or uneasy spirits should unhappily procure themselves to be elected for representatives, and should for the supporting their own private views, or interests, influence their brethren, otherwise honest and well designing, to espouse their cause; in such case, indeed, disputes may arise, wherein we shall engage with the utmost reluctance; but even then, as we shall make the general good the rule of our actions, we shall, on all such occasions, if ever they should happen, steadily, and without wavering, pursue measures the most likely to conduce to that good end.*

15. In return to the good resolutions expressed by the proprietaries in their fifteenth section, your committee hope that future, as well as past assemblies, will likewise endeavor to make the public good the rule of their actions, and upon all occasions consult the true interest and honour of the proprietary family, whatever may be the sentiments or conduct of any of its particular branches. To this end, we think the honest and free remarks contained in this report, may be more conducive than a thousand flattering addresses. And we hope, that when the proprietaries shall think fit to reconsider this matter, they will be persuaded, that agreeing an to equitable proportion of expence will be a good means of taking away one handle of dissention from "men of warm uneasy spirits, if such should ever unhappily procure themselves to be elected."

16. *The representatives being annually chosen, we are aware that we are not writing now to the same persons who sent the representation to us; the persons most forward to push on a mea-*

16. Yet if the proprietaries are really desirous of preserving an union and harmony between themselves and this people, we cannot but be surprized at their last para-

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ure (which, from the answer, we directed our governor to give to the former application he was desired to make to us, must be supposed disagreeable) may not now be in the house, but may be succeeded by more prudent persons, returned for their places, who would be careful not to press a matter too far, in which the rights of the people are not really concerned; however, the answer we give must be to the representation sent us. And we desire, in any matter of the like nature, that the house will be satisfied with such an answer as the governor may have orders to give on our behalf.

THOMAS PENN,
RICHARD PENN.

graph, whereby they endeavor to cut off the assemblies access to them, in cases where the answers received from their deputies, may not be thought agreeable to the public good. No king of England, as we can remember, has ever taken on himself such state, as to refuse personal applications from the meanest of his subjects, where the redress of a grievance could not be obtained of his officers. Even sultans, sophys, and other eastern absolute monarchs, will, it is said, sometimes sit whole days to hear the complaints and petitions of their very slaves; and are the proprietaries of Pennsylvania become too great to be addressed by the representatives of the freemen of their province? if they must not be reasoned with, because they have given instructions, nor their deputy because he has received them; our meetings and deliberations are henceforth useless; we have only to know their will, and to obey.

To conclude, if this province must be at more than two thousand pounds a year expence, to support a proprietary's deputy, who shall not be at liberty to use his own judgment in passing laws [as is intimated to us in the fourteenth section of the answer we have been considering] but the assent must be obtained from chief governors, at three thousand miles distance, often ignorant or misinformed in our affairs, and who will not be applied to or reasoned with when they have given instructions, we cannot but esteem those colonies that are under the immediate care of the crown in a much more eligible situation: and our sincere regard for the memory of our first proprietary, must make us apprehend for his children, that if they follow the advice of Rehoboam's counsellors, they will, like him, absolutely lose —*at least the affections of their people.* A loss, which however they affect to despise, will be found of more consequence to them than they seem at present to be aware of.

All which is humbly submitted to the correction of the house, by, &c.

September 11, 1753.

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A message from governor Morris to the assembly, August 12, 1755.

GENTLEMEN,

WHEN I amended and sent down to you the bill for raising fifty thousand pounds for the king's use, I expected you would have returned it to me with the amendments, and informed me which of them you agreed to, this being the common and ordinary method in such cases; but you departed from this, and desired to know whether I was restrained by the proprietaries from taxing their estate, and the reasons for my opinion as to that measure; and though this application was unparliamentary, and I believe unprecedented, yet upon this occasion I indulged you therein, and gave my reasons in the mildest terms, on which, however, you have been pleased to treat both the proprietaries and myself in a very unbecoming manner.

As you have returned me the bills without the amendments, and in your message that accompanied it, offer no reasons against any of them but such as relate to taxing the proprietary estate, I conclude you have agreed to the others; I shall therefore consider the several parts of your message, and make such observations upon, and answer to it, as I think it merits.

Having told you that I had no power by my commission to hurt or encumber the proprietary estate, you take occasion in your answer to play with the words *hurt* and *encumber*, and having viewed them in different lights, tell me, 'that your bill is intended to free the proprietary estate from hurt and encumbrance, by removing the French, and that you are as much bound not to hurt or encumber the estates of your constituents, as I am with respect to the proprietary estate;' and having shewn, as you think, that the proviso in my commission does not prohibit me in the present case; you then proceed to reason upon the clause itself, and after producing a very good opinion of a former council, judge, and secretary, as to a particular saving in the late proprietary commission, you very roundly pronounce that proviso to be a nullity, and not at all binding on me.

You must give me leave to differ from you in opinion, as to the force of the words in that clause, which, notwithstanding what you have said, have still the same plain and determinate meaning they had before; every tax, in my mind, being an encumbrance upon an estate, from which it cannot be cleared but by the payment of a certain sum of money; and I being expressly restrained by my commission from consenting to any act that may encumber the proprietary estate, every unprejudiced person will see clearly, that my powers do not extend to the present case, and that if I acceded to your opinion, I should be guilty of a manifest breach of trust.

As to the validity of prohibitory clauses in the proprietary commissions, I am not fortunate enough to comprehend the force of your reasonings upon this head, which are drawn from the fourth section of the royal charter; for though by that charter power is given to the proprietaries, their deputies, and lieutenants, to make laws, yet it does not alter the relation which

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by law subsists between a principal and his deputy, the intention of the charter in that particular, being no other than to impower Mr. PENN, and his heirs, to administer the government by his and their lieutenant or deputy, which being a judicial office, he could not otherwise have done; and so far is the charter, by its general tenor, from making the deputy equal to, or independent of, the principal, that it makes the proprietaries alone civilly answerable for what is done in the province, whether by themselves or their lieutenants, which would be unjust if the lieutenant by the charter was equal in power, independent of, and uncontroulable by, the person that appoints, and is answerable for his behaviour. Though I allow the opinion produced to be good, as to the point then under consideration, yet it is not applicable to all cases, which your arguments, without any foundation, suppose; and in the present one there is a wide difference, obvious to every one who considers them both with the least degree of attention; because that saving was even reserving a power to the proprietary in his own person, to repeal a law which he by his lieutenant had consented to; whereas, in the present case, the restriction amounts to nothing more than a reasonable prohibition upon their governors, as such, from passing laws to injure their estates.

I cannot help observing, that you formerly used these same arguments against the validity of royal instructions, and using them now to destroy the force of proprietary prohibitions, you would, it should seem, be willing that the lieutenant-governor should be independent of every body but yourselves.

You say, that the same proviso restrains me from letting or selling the proprietary lands; and yet I propose to give away six or seven hundred thousand acres upon the present occasion; and seem vastly surprised, that I should think myself restrained from encumbering the proprietary lands by act of assembly, and yet at liberty to give them away; for if, say you, the grant of lands, contrary to such prohibition, would be valid, why not the passing the bill for a tax? And this you call a question you cannot solve. It is something very extraordinary, that the representative body of Pennsylvania should know so little of the affairs of the province, as never to have been informed, that the governor grants the proprietary lands under a certain power of attorney, regularly proved and recorded, called a commission of property. That this power was formerly vested in private persons; but for some years past, has been given to the governors; and, being the foundation of property, cannot be unknown to any the least acquainted with the circumstances of the province. And to ask a question or two in my turn, how could you think that the lands in the province were granted under the powers of a commission that expressly prohibits the granting of any? or that the people would be so weak as to give money for lands, and take titles under such a defective power? As to the proposal itself, it was made with a good intention; and as I am accountable to the proprietaries for my conduct under that commission of property, you may be assured I did not make it without proper power to carry it into execu-

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tion; and had you raised money for an expedition to the westward, and for encouraging settlers, I should then have made an offer of the lands by proclamation, letting the adventurers know, that they were to have the choice of the lands in preference to all others, with every thing else that could reduce the offer to a certainty; which there was no necessity of doing in a message to you, barely mentioning the thing, and recommending to you to grant an aid to those that should become settlers after the French were removed.

But whatever comes from the proprietaries, however just, however favorable, must be wrong, and accordingly you are determined to represent in that light a proposal generous in itself, and intended to promote the public service and safety; which may serve to shew the temper of mind you are in, but can answer no good purpose. You say, lands equally good may be had in Virginia for two shillings sterling quit-rent, and none to be paid in fifteen years; it may be so, but how does it appear that they are equally good? It is plain they are not equally convenient, because of a greater distance from a market. The quit-rent in Virginia, I suppose was the same formerly that it is now, and yet very great numbers have chosen to purchase lands in this province of the proprietaries, at the rate of fifteen pounds ten shillings per cent. and of private men at a much higher price, and in both cases under the quit-rent of four shillings and two pence sterling, when they might have had them in Virginia for much less; and the proposal ought not to be considered by comparing it with other provinces, but with the rate that lands have, for a number of years past, been sold at in this province; some of them lately in the new purchase, within a few miles of the Allegheny mountains, and others very remote, without any road of communication with this city, which is not the case as to the lands proposed to be given, there being a very good waggon road thither; and notwithstanding what you have said upon this head, I am convinced, that if you had enabled me, in conjunction with the neighbouring governments, to have sent a body of troops into that country, an offer of lands, upon the terms above-mentioned, would have had very good effects, and would have induced many to have gone and become settlers there, that would not otherwise thought of doing either, and by that means have formed a barrier for the protection and security of the province; and therefore I cannot but be astonished, that you should have taken so much pains to depreciate it.

And now having effectually removed in your judgment my greatest objection to passing your bill, you proceed to consider my reasons in their order. And to the first, that governors, from the nature of their offices, are exempt from the payment of taxes.——You take a very nice distinction between the proprietary as owner of land, and the proprietary as chief governor, and say, "you do not tax him as governor, but as a land-holder, and fellow-subject;" though this is a distinction that has no existence in law or reason, yet I shall for the present admit it, and consider it accordingly. Have the proprietaries a right to vote in the election of representa-

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tives as land-holders? surely not, being hereditary governors of the province, and having a voice in the legislature by their own particular representative the governor. How then came you by a right to tax them as fellow-subjects and land-holders, seeing they had no voice in choosing you, nor were entitled to any, though owners of land in every county? From the very principles therefore of the English constitution, you have no right to tax them as freeholders or fellow-subjects, as you call them; if, therefore, you tax them at all, it must be as proprietaries, and chief governors, which is the only capacity by which they are connected with, or related to, the inhabitants of this province; and under them in that capacity, you derive the power of acting as an assembly. You cannot therefore, without inverting the order of things, have a power over those from whom you and every one else in the province derive all the power they have. They hold the government and soil of this province under the same grant, and the title to both is centered in their persons, and cannot be separated or divided without destroying their authority. It may be very true, as you say, "that the proprietaries do not govern you;" but that is not owing to any want of legal authority in them, but from another cause that I need not mention here.

The support, as you call it, that is paid by the province to a lieutenant-governor, is no other than the fees of office, and as such are due to any one that administers the government, and are not, what you would insinuate, given to the lieutenant for doing the duty of the principal; the chief of them are public-house licenses, which were originally granted by charter, not by any concession of the people (though you from time to time have taken it for granted to be so) and in favor to them, as former governors took much larger sums for this service, moderate fees have been consented to be fixed by law, as considerations for the business done, not as sufficient for the support of government; all the fees and perquisites whereof do not amount, *communibus annis*, to more than a thousand pounds.

As to the land tax acts of parliament you refer to, they may be as you say with respect to the crown's fee-farm rents. But I do not conceive they amount to a proof that the king pays taxes, all taxes whatever being paid to him; and there seems to me an inconsistency in supposing he can both pay and receive. I take the clause you mention to have no other meaning than to appropriate part of the revenues of the crown to one public use, which were before appropriated to another; for I must observe to you, that the king can have no private estate, but from the dignity of his office holds his lands in right of the crown. And another reason why a poundage is collected upon the crown's fee-farm rents, may be, that the land tax should not fall heavier upon the other lands in the same hundreds or districts, as the quotas of each were long ago settled as they now stand in the king's books, and cannot, without confusion, be altered upon the crown's acquiring lands in any of them.

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And upon this you break out into a lofty exclamation, that 'this is not the first instance by many, in which proprietaries and governors of petty colonies have assumed to themselves greater powers, privileges, immunities, and prerogatives, than were ever claimed by their royal master on the imperial throne of all his extensive dominions." I must acknowlege, gentlemen, that these are sounding words; but what instances among the many can you give, of that assuming behaviour in your present proprietaries? have they ever claimed any rights or prerogatives not granted to them by the royal charter, or reserved by that of their father, under which you sit? can you lay to their charge, during the course of a long administration over you, one act of injustice or severity? have they even exercised all those powers which by the royal charter they might legally do, and to which that charter requires the people to be obedient? on the contrary, have they not given up to the people many things they had a right to insist on, and indulged them in every thing that they judged for their benefit? how just is it therefore, gentlemen, to accuse them of assuming powers and prerogatives greater than their royal master? would you turn your eyes towards your own conduct, and apply some of these significant words to yourselves, you would find them much more applicable than they are to the proprietaries. The charter under which you act, gives you the powers and privileges of an assembly, according to the rights of the free-born subjects of England, and as is usual in any of the king's plantations in America. This, gentlemen, is the foundation of your powers, which, by the royal charter, were to be consonant to the laws and constitution of England. But instead of confining yourselves to that which your wise ancestors thought fully sufficient to answer the ends of good government, and secure the liberties of the people, you have taken upon you great and mighty powers, dispensed with positive laws by the strength of your own orders, claim a right to dispose of all public money, and of keeping your proceedings a secret from the crown, with many others unknown to an English constitution, and never heard of in the other plantations in America. Who therefore can be so justly accused as yourselves of assuming unwarrantable powers, greater than ever were claimed by a British house of parliament, or, to use your own words, 'by your royal master on the imperial throne of all his extensive dominions,' who pretends to no powers but what the constitution gives him, and disclaims a right of dispensing with laws.

To these encroachments on the constitution you give the sacred name of privilege and under the mask of zeal for the public, conceal your own schemes, pretending they are all for the benefit of the people, when they can answer no purpose but to encrease your own power, and endanger the just rights that the people enjoy under the royal and proprietary charters, by making it necessary for his majesty and a British parliament to interpose their authority to save the province. The people have no way so effectually to secure themselves in the enjoyment of their liberty, as strictly adhering to the constitution established by charter, making that the foundation and standard of their proceedings, and discountenancing every deviation from it.

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The second and third reasons given by me, and your answers to them being deduced from the law for raising county rates and levies, I shall consider them together.

I do not see why the proprietary estate in each county is not benefitted in common with other estates, and by the same means. The proviso therefore relating to their estates, was not inserted because he had no benefit by the money raised, but was properly a condition, upon which his governor consented to vest the whole power of choosing the tax-officers in the people, and is declarative of the rights of his situation, of which the people in general might be ignorant.

I think, with you, that the proprietary tax would not be more than an hundredth part of the whole, but cannot therefore admit, that if he is taxed, he should be excluded from any voice in the choice of those impowered to tax him, or that the votes of his officers, in their own right, can make the assessors his representatives; nor can I easily conceive, that a negative upon a choice is half the choice, or indeed any part of it; but as what you say upon this head has very little argumentative force, I shall not dwell upon it, but say something as to the law itself.

From the tenor of the act it appears to me to be intended, not only for laying and raising taxes to defray the necessary charges in every county, but to settle the mode of raising money upon all occasions; it directs the manner of choosing commissioners, assessors, collectors, and treasurers, gives them particular powers, and regulates the conduct of those entrusted with the laying and receiving taxes. It is a positive and perpetual law, and by a special proviso expressly declares the proprietary estate not liable to taxes. You yourselves apply it to a provincial purpose by the bill under consideration, and the apparent reason why it was never applied to that purpose before is, that no provincial tax has ever been laid since the enacting of that law.

You are certainly empowered, by some temporary laws to dispose of particular monies raised by those laws, when they come into the public offices, and I do not know that this power has been disputed; the legislature that gave those laws a being, had a right to pass them in that shape, and a future legislature may do the same, if they think fit; but I do not conceive that you have from those laws a right to dispose of all money that shall be raised, that being no part of the charter, but must depend upon the legislature that raises it, who may reserve the disposition to themselves, give it to you, or any body else they think fit.

And here I cannot help taking notice of an expression in your message, that you have allowed me a share in the disposition of the fifty thousand pounds. Is it from you, gentlemen, that I derive the right of governing this province, or from your allowance that I have a voice in the legislature? are you the sovereign disposers of power? have you a right to give and take away at pleasure? if not, whence that lofty claim of allowing your governor a share in the disposition of public money? is not the whole property of the people subject to the power of the legislature; and have I

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not a voice in that legislature, not derived from, or dependent upon, you; and how came you therefore by a right to allow me a share in the disposition of money, which cannot be raised without my consent? such language may possibly be agreeable to your notions of your own superlative powers, but is not justified by the constitution established by charter, or any rights properly belonging to an assembly; and your claiming such a power, shews the extensiveness of your plan, which is no less in that respect, than to render yourselves independent, and assume a superiority over your proprietaries and governors; a plan you would not fail to carry into execution, were your power equal to your inclinations.

The proprietaries do not shrink, as you call it, at the payment of a small sum of money, nor is that the motive for insisting on their right, they having by me offered much more than their proportion of this tax can possibly amount to; but to preserve the rights of their station, which if they give up, whenever they are demanded, as claims will never be wanting, they will very soon be stripped of every thing they have a right to enjoy, both power and property.

Your answer to my fourth reason admits, that taxing the estates of proprietaries is contrary to the usage and practice in this and other governments, by saying, that custom and usage, against reason and justice, ought to have but little weight. But I do not admit that reason and justice are on your side of the question; on the contrary, I think I have shewn that they are with me, and look upon the usage and custom as a strong evidence, that the legislatures of this and other proprietary governments were of my opinion; and I am very much concerned, gentlemen, that you shall choose this time of imminent danger, when your country is invaded, to introduce a new and extraordinary claim, to the prejudice of persons that are absent; when you know, that however right, you may think it, I have it not in my power to consent to it, consistent with duty and honor.

As to myself, I think it necessary to say, that for the dispatch of the public business at this critical conjuncture, when every honest heart should be concerned for the public service, I studiously avoided every thing that could renew the disputes that subsisted between us, and earnestly recommended the same temper of mind to you; and cannot therefore but be exceedingly surprised in return to be thus injuriously treated, and represented as the hateful instrument, of reducing a free people to the abject state of vassalage. What grounds have you, gentlemen, for this heavy charge? what laws of imposition, abhorrent to common justice and common reason, have I attempted to force down your throats? have I proposed any thing to you, during the course of my short administration, but to grant supplies to the crown adequate to the exigency of the times; to assist the king's forces sent for our protection; and to put the province into a posture of defence, by establishing a militia, which is putting the sword into the hands of the people for their own security? and where can it be trusted with more safety than to themselves? are these impositions, or are they abhorrent to common justice and reason? I have, it is true, refused to give my assent to some

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bills proposed by you, because they were contrary to the king's instructions; and amended others, to make them agreeable to the charter, and consistent with the safety of the people, by lodging the disposition of the public money in the hands of the legislature; and for this, which is no more than a due obedience to the lawful commands of the crown, and the free exercise of my reason and judgment in matters of legislation, am I branded with infamy and reproach, and set up as the object of a people's resentment.

I am not, gentlemen, conscious to myself of having done, or intended to do, any the least injury to the people committed to my charge; and the man that has been oppressed or injured by me, let him stand forth and complain. Who is it in your province that does not enjoy the freedom of his own religious worship? whose liberty have I taken away? or whose property have I invaded? surely if I have taken advantage of the people's distress, and of your regard for your country, to force down your throats laws of imposition, abhorrent to justice and reason; if I have done or attempted any thing to deprive the people of their liberties, and reduce them to the abject state of vassalage, you will be able to point out some instances of these things; and I call upon you to do it, if you can, and make good your charge. It is not to the people I am hateful, gentlemen, but to yourselves; and that for no other reason, but doing the duty of my station, exercising my own judgment, as a branch of the legislature, with freedom and independency, and keeping you, as far as it was in my power, to the duty of yours.

Had you really any tenderness for your bleeding country, would you have acted the part you have done? would you have looked tamely on, and see the French seat themselves within your borders? would you have suffered them to encrease their numbers, and fortify themselves in a place from whence, in few days, they may march an army among the inhabitants? would you have been deaf to all the affectionate warnings and calls of his majesty, the faithful guardian of his people's safety? and would you have refused the proper, necessary and timely assistance to an army, sent to protect these colonies? or would you now, when that army is defeated, waste your time in disputing about new and extraordinary claims of your own raising, when every head and hand should be employed for the public safety?

However, gentlemen, to conclude, let me entreat you to lay aside all heat and animosity, to consider the naked and defenceless state of the inhabitants, with a temper of mind becoming the important occasion; to look upon the French, and their Indians, as your only enemies, and the person that intend to enslave you; and be assured, that your proprietaries, or governor, have no designs to the prejudice of the people of Pennsylvania, but will continue to protect them in the enjoyment of all their just rights and privileges.

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The assembly's answer to the foregoing message, August 19, 1755.

May it please the Governor,

HOW disagreeable soever the task may be, to wade through all the misrepresentations in the governor's long message of the thirteenth instant, a regard to truth, and to truths of importance to the welfare of our country, will oblige us to submit to it

The governor is pleased to tell us, that 'when he sent down our bill for raising fifty thousand pounds, with the amendments, he expected we should have returned it with the amendments, and informed him which of them we agreed to, this being the common and ordinary method in such cases.' The governor allows in this message, that we have by charter, 'the powers and privileges of an assembly, according to the rights of the freeborn subjects of England, and as is usual in any of the king's plantations in America.' Now, we take it to be one of those privileges and powers of an assembly, to have their money bills, granting supplies to the crown, accepted as they are tendered, if at all accepted, and that without any proposal of amendments. We think this is a privilege claimed and used by the house of commons, and as far as we know by all the assemblies in America; so that it is far from being the common and ordinary method to receive and debate on amendments proposed by the governor to such bills. It is therefore without foundation, that the governor supposes we agreed to all the other amendments, merely because we offered no reasons against any of them, but that which related to taxing the proprietary estate. For we even made that step of deviation from the common and ordinary method, entirely in consideration that the occasion for the supply was uncommon and extraordinary, hoping thereby to come more speedily to a happy conclusion in the business of the session, and without the least intention that it should ever be drawn into precedent

The governor still insists, that taxing the proprietary estate, though it be to free it from French encroachments, will be an encumbrance on that estate. Be it so then, since the governor will have it so, for our differences are less about words than things: does this however prove the validity of the prohibitory clause in his commission? or that it is equitable and just the proprietary estate alone should be exempt from a tax, which all the estates in Britain and her colonies now bear, or must bear, to free that very estate from encroachments and encumbrance?

The governor is 'not fortunate enough, he is pleased to say, to comprehend the force of our reasonings on this head, that are drawn from the fourth section of the royal charter;' which, though it gives power to the 'proprietaries and their deputies and lieutenants to make laws, does not alter the relation between a principal and his deputy, or make the deputy equal to, or independent of, the principal, &c.' We will therefore, for the governor's satisfaction, endeavor to express our sentiments yet plainer, if possible, and enforce them farther. The royal charter grants 'full, free, and

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absolute power (not only to the proprietary and his heirs) but to his and their deputies and lieutenants, to enact any laws whatsoever, for raising money for the safety of the country, according to their best discretion, with the assent of the freemen, &c.' But the governor objects, notwithstanding this full and free power, granted by the royal charter to me as the proprietaries deputy, I cannot use my best discretion in this case, nor enact the proposed law, because there is in my commission a prohibitory clause or saving which restrains me; and if I should pass it, such prohibition notwithstanding, the law would not be valid. To this we answered, that no prohibition of the proprietaries can lessen or take away from the lieutenant-governor any power he is vested with by the royal charter; and, in support of this, as an argument, at least to the governor, produced to him an opinion of the proprietary and governor's former council, on the case of a proviso or saving in the lieutenant's commission, that restrained, in favor of the proprietary, the power of making laws which is granted to the lieutenant in the royal charter. This opinion (which the governor allows to be a good one) declares that saving to be void in itself, and that any laws passed by the lieutenant shall be valid, the saving notwithstanding. But the governor would distinguish it away, by alleging, 'that though the opinion was good in that case, it is not applicable to all cases.' If it is applicable to the present case, it is all that is necessary for our purpose, which was to shew, that a proviso in his commission, restricting the powers granted him by charter, was void in itself; and that if he passed a law contrary to the proviso, the law would be valid. The 'relation between the principal and his deputy' still remains entire; the deputy is dependant on the principal, and may be removed by him at pleasure. But as the principal cannot give powers to the deputy which he has not himself, so neither can he lessen the powers given to the deputy by the charter. If the proprietary can, by prohibitory clauses in his commission, restrain the deputy from passing any one law, which otherwise he had power by the charter to pass, he may by the same rule restrain him from passing every law, and so the deputy would be no deputy. That the charter makes the proprietary 'civilly answerable for what is done in the province by their lieutenants,' we conceive to be a mistake. The proprietary is by the charter, made answerable for any misdemeanor that he himself shall commit, or by any wilful default or neglect permit, against the laws of trade and navigation. But if the deputy commits a misdemeanor, which the proprietary does not permit, through his own wilful default or neglect, we presume he is not answerable for such misdemeanor by the charter; and less, in reason, now, than when the charter was given; as by an act of parliament of later date, every deputy appointed by the proprietary, must before he can act as such, receive the royal approbation. The very nature and reason of the things, moreover, seem to us to show, that a deputy to do a thing, should have all the powers of the principal necessary for doing that thing; and every lieutenant or deputy governor, is, by the nature of his office, and the reason of his appointment, to supply or hold the place of a governor. But the royal charter

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being so express and plain in the point, leaves us under no necessity of investigating this truth by reason. Should our constituents, when they chuse us to represent them in assembly, not only instruct us, but even take bonds of us, that we should assent to no law for the better and more effectual recovery of the proprietary quit-rents, if such a law were required of us, or thought necessary by the governor; would he think such prohibitions or bonds valid? would he not say they were void in themselves, as forbidding what he thinks a just and reasonable thing, depriving us of the right of using our best discretion, and restraining the powers granted to us by charter. The case we conceive to be the same with respect to the proprietaries lieutenant (who is their representative) if he is so restrained as the governor thinks himself to be. 'The government, and the exercise of the government, are inseparable,' says chief justice Pollexfen, a famous lawyer, 'and wherever the government is granted, the exercise of that government is meant and included. If the king grant to any one the government of Jamaica, or the like,' continues he, 'sure no one will say, that that is not a grant of the exercise of the government there!' and we suppose this is as good law, with regard to the grant of the government of Pennsylvania.

The governor is pleased to say, that he cannot help observing, that we formerly used the same arguments against the validity of royal instructions. We have all due respect and deference for royal instructions; the king has not any where a more dutiful and loyal people; but what does the governor intend by the validity of instructions? does he mean that they are laws in the colonies? and if the royal instructions were such, does it follow that proprietary instructions have the same validity? we apprehend there may be some difference, but at present it is not necessary to discuss it.

For our doubting in the least the governor's power to make the offered grants of land (free of purchase money and quit-rent for fifteen years) in the behalf of the proprietary, he is pleased to treat us with great contempt on account of our ignorance, observing, that 'it is something very extraordinary, that the representative body of Pennsylvania should know so little of the affairs of the province, as never to have been informed, that the governor grants the proprietary lands under a certain power of attorney, regularly proved and recorded, called a commission of property; that this power was formerly vested in private persons, but for some years past has been given to the governors; and being the foundation of property, cannot be unknown to any the least acquainted with the circumstances of the province. And now, continues the governor, to ask a question or two in my turn, how could you think that the lands in the province were granted under the powers of a commission [meaning his commission as lieutenant governor] which expressly prohibits the granting of any? really we should be very ignorant indeed if we thought so; but it happens, may it please the governor, that we are perfectly well acquainted with all these matters, and have even now lying before us an authentic copy of that certain power of attorney, called a commission of property, which we suppose most, who

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have read the governor's message, are persuaded gives him full powers to make the grants of land, which in his message of the twenty-eighth past, he proposed 'to make to such persons as shall now engage to go upon an expedition to remove the French from their encroachment on the river Ohio, without any purchase money, and free of quit-rent for fifteen years.' Our copy of this commission is taken from the records, and certified to be a true one, under the hand and office seal of the master of the rolls. We have examined it thoroughly to find the powers by which those grants were to be made, and unfortunately (we are sorry we are obliged to say it to the governor) there is no such thing; not even a syllable of the kind; but on the contrary, after a power given to the governor to grant lands claimed by virtue of former purchases, there is this clause, 'and also, by warrants to be issued as aforesaid, to grant to any person or persons who shall apply for the same, and to their heirs and assigns for ever, any vacant lands within the said province and counties, or any of them, upon, by, and under the same terms, methods, rents, and reservations, as have of late been used and practised in the said land office, but for no less price, condition, rent, or reservation in any wise.' That is, for fifteen pounds, ten shillings, per hundred acres, purchase money, and four shillings and two pence sterling quit-rent. And now will the governor give us leave to ask a question or two in our turn? 'how could he think that lands might be granted away, without any purchase money, and free of quit-rent for fifteen years, under the powers of a commission which expressly forbids his granting any' under less price, condition, rent, or reservation whatsoever, than has of late been used and practised in the land office? how could he think of referring us to such a commission for his power to make those grants, when he knew it was never there? how could he slight his reputation so much, as to hazard such an imposition on the assembly and whole province! one so easily detected! we make no further remarks on this, lest we should again incur the censure of treating our governor in an 'unbecoming manner.'

'The proposal, however, the governor is pleased to say, was made with a good intention; and had we raised money for an expedition to the westward, and for encouraging settlers, he should then have made an offer of the lands by proclamation, letting the adventurers know, that they were to have the choice of the lands, in preference to all others, with every thing else that could reduce the offer to a certainty, which there was no necessity of doing in a message to us, barely mentioning the thing, and recommending to us to grant an aid to those that should become settlers.' It is remarkable how slowly and gradually this generous offer is squeezed out. We never heard a word of it during all the time of general Braddock's expedition, for which recruits were raised both in this and the neighbouring colonies, though the governor brought over with him, and had in his pocket all the while, that 'certain power of attorney, called a commission of property,' to which we are referred for his powers of making the offer. But as soon as the house had voted to raise fifty thousand pounds by a tax on all the estates in the province, real and personal, down comes a message,

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containing a proposal to grant lands to the soldiers who should engage in the expedition; a proposal made with a good intention, as the governor says; that is, with an intention to get the proprietary estate exempted from the tax, by seeming to offer an equivalent in another manner; but worded in the most cautious terms, as became an offer made without authority; and so as indeed to offer nothing that could affect the proprietary; for the quit-rent to be reserved, not being ascertained, but left in the proprietary's breast, he might, when the patents were to issue, demand a quit-rent greater than the worth of the land. This being observed, and talked of, we had another message, intimating that the quit-rent to be reserved should be only the common quit-rent of four shillings and two pence sterling, per hundred acres. But still the land was no otherwise described than as west of the Allegheny mountains; leaving the proprietary at liberty, after the conquest should be made, to pick out, according to the modern practice, all the best lands for himself and his friends, and offer the adventurers such as they would be sure not to accept of under that rent. And this being pointed out, we are now told, 'that a future proclamation is to give them the choice of the best lands; but it was not necessary to mention this to us in a message recommending to us the granting an aid to those settlers.' If we were to grant aids to the settlers on proprietary lands, was it not proper for us, as guardians of the people, to know the terms on which they were to hazard their lives, and see that those terms were good in themselves, and the offer duly ascertained? we conceive, may it please the governor, that whenever we grant an aid for the encouragement of such settlers, it will be proper to have the terms ascertained by the same law, and not left to the precarious effect of a proclamation thereafter to be made by a governor, in the proprietary's behalf, without any apparent power for so doing. If the offer is well meant, a law to ascertain it cannot hurt the proprietaries; the recovery of the country, and the settlement of the lands, are two distinct things. Let us first join equitably in the tax for the recovery; and whenever the governor shall be willing to pass such a law, we are not averse to giving the proposal of granting lands a full and mature consideration; and affording such equivalent encouragement to settlers, in provisions, &c. as we mentioned in our former message. But if he can pass such a law to grant the proprietary's lands, contrary to the prohibition in his commission, may he not full as well pass the bill for taxing the proprietaries estate?

We cannot leave this point, without a word or two in justification of ourselves, against the heavy charge of depreciating, from a bad temper of mind, this generous offer, that would have had such good effects in promoting the public service and safety. We would not be misunderstood; we look upon it that lands may be made a valuable encouragement, but we do not see any generosity in offering them to the recoverers at double the market price. The encouragement to adventurers is not diminished, but rather increased, by our telling them where they may, for their service in the same expedition, have lands equally good and more convenient, on

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better terms. For the Virginia vacant lands are many of them nearer to navigable water than the good western lands of this province, and equally well accommodated by the waggon road made by the late army. It is true, the proprietaries price is fifteen pounds ten shillings per hundred acres, with a quit-rent of four shillings and two pence sterling. Numbers who imprudently made improvements before they obtained a title, were obliged to give that price; and the great assistance our loan office afforded, by furnishing money to poor people on low interest, and taking it again in small payments, thereby enabling them to purchase lands, an advantage they could not have elsewhere, might encourage many to stay in the country, and take up lands on those terms. But that is now over: for the act is near expiring, and it seems we are to have no more of the kind; and when that encouragement had its full force, was it ever known that any people came from Virginia to purchase here, on account of the superior goodness or convenience of our lands? on the contrary, have not many thousands of families gone from hence thither, and within these few years settled fifteen or twenty new counties in that colony? have not thousands likewise left us to settle in Carolina? had not the exorbitant price at which the proprietaries held their lands, and their neglect of Indian purchasing in order to keep up that price, driven these people from among us, this province would at this day have been in a much more flourishing condition. Our number of inhabitants and our trade would, in all probability, have been double; we should have been more able to defend the proprietary's estate, and pay his tax for him, and possibly more willing; but they are gone, and gone for ever, and numbers are going after them! and if the new politics prevail, and our distinguishing privileges are one by one to be taken from us, we may, without the gift of prophecy, venture to foretel, that the province will soon empty itself much faster than it ever filled.

In fine, this offer was in fact a mere illusion intended first to impose on the assembly, and then on the people; it was likewise to figure with at home in the eyes of the ministry. We discovered the deception, and the governor is offended that we did not keep the secret. He is "astonished that we should depreciate an offer which would have had very good effects, and induced many to have gone on the expedition and become settlers, that would not otherwise have thought of doing either." May it please the governor, as bad an opinion as he is pleased to entertain of us, we have some conscience; and would not choose, by our silence, to have any share in the disappointment and other ill consequences which might ensue to those who should have gone on that vague, empty, unwarranted offer, and not otherwise have thought of it And we, in our turn, may be astonished that the governor should expect it of us.

We are in the next place told by the governor, "that we take a very nice distinction between the proprietary as owner of land, and the proprietary as chief governor, and say, we do not tax him as governor, but as a land-holder and fellow-subject." Our words are, "We do not propose to tax him as governor, &c." but the governor by carefully omitting the word

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propose, in his quotation, gives himself an opportunity of expatiating on the absurdity and insolence of our inverting the order of things, and assuming a power to tax the proprietaries, "under whom, [he is pleased to say] we derive the power of acting as an assembly." Had the word *propose* been honestly left in its place, there would have been no room for all this declamation; and the demand, 'How came you by a right to tax them?' might have well been spared; since, though we as an assembly have no right to tax the proprietary estate, yet the proprietary and assembly together have surely such a right; and as he is present "by his own particular representative the governor, we may have a right to propose such a thing to him, if we think it reasonable. Especially since we do not, as the governor imagines we do, derive our power of acting as an assembly from the proprietary, but from the same royal charter, that empowers him to act as governor.

We had been told in a former message, that the proprietary ought to be exempt from taxes, for he was a governor, and governors were exempt by the nature of their office. We replied, that he did not govern us, but the province supported his lieutenant to do that duty for him. On this the governor now makes the following observation, "It may be very true, as you say, that the proprietaries do not govern you; but that is not owing to any want of a legal authority in them, but from another cause, that I need not mention here." We were reproached in the beginning of this message, as playing with words; and the governor, it seems, has now caught the infection. The reason we gave why the proprietary could not be said to govern us, was a plain one; but the governor insinuates some other cause without explaining it, that there may be room for the reader's imagination to make it any thing or every thing that is bad. We dislike these dark inuendoes, and shall speak our minds openly. It may be thought rude and unpolite, perhaps, but it is at least fair and honest, and may prevent misunderstandings. If, therefore, the present proprietaries do not govern us, it is because they never assumed the government in their own persons, but, as we said before, employ a deputy; and if the deputy does not govern us, it is not because we are ungovernable or rebellious, as he would insinuate, nor for want of sufficient power in his hands by the constitution; but because he has not that spirit of government, that skill, and those abilities, that should qualify him for his station.

The governor is pleased to tell us, "that our distinction between the proprietary as owner of land, and the proprietary as chief governor, has no existence in law or reason." We shall endeavour to shew him, that it exists in both with regard to the king, and therefore presume it may with regard to the proprietary. The governor tells us likewise, as a matter of law, "that the king can have no private estate, but from the dignity of his office holds his lands in right of the crown." We are not any of us lawyers by profession, and would not venture to dispute the governor's opinion, if we did not imagine we had good authority for it; we find in Viner's abridgment, an allowed book, title descent of lands, these observations, which

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we hope may be satisfactory to the governor in both points. It is there said, "that the king has two capacities, for he has two bodies, of which the one is a body natural, consisting of natural members, as every other man is; the other is a body politic, and his members thereof are his subjects. He may take in his body natural, lands or tenements, as heir to any of his ancestors; and also in this capacity may purchase to him and his heirs, and his heirs shall retain it, notwithstanding that he is removed from the royal estate. And he may also take or purchase lands or tenements in fee in his body politic, that is to say, to him and to his heirs kings of England, or to him and his successors kings of England; and so his double capacity remains, as it does in other persons who have a double capacity, as bishop or dean," &c. We presume that our proprietaries hold the manors they have laid out to themselves, and the other lands they may have repurchased in their province, in their private capacities, as Thomas Penn, or Richard Penn, and not in their capacity of chief governor. The governor is pleased to allow, "that one reason why the king's fee-farm rents are taxed in England, may be, that the land tax should not fall heavier upon other lands in the same district." It seems to us a good reason, and to hold as well in our case. For should the proprietaries go on encreasing their already enormous estate, sue and recover all their mortgages, add field to field, and make purchase after purchase, till the number of freeholders in the province is reduced to a handful; can it be thought reasonable that every estate as it comes into their hands shall be exempt from taxes, and the burden of supporting the government, and defending the province, thrown all upon the remainder? and yet this must be the case if our distinction has, as the governor says, no existence in law or reason.

The governor denies that the fees and perquisites he enjoys are paid for support of government; they are, he says, "only moderate fees consented to be fixed by law, as considerations for the business done; and the public-house licences, which are the chief of them, were originally granted by charter." This latter assertion is quite unintelligible to us. We can find no such grant in the royal charter, nor can we conceive how the proprietary can grant a fee to himself by his own charter. The governor is a stranger here, and may be unacquainted with the rise and establishment of what is called the support of government among us. He will therefore permit us to relate it to him, as we have received it from our ancestors, and find traces of it on our records. When the first settlers purchased lands from the proprietary, he demanded, besides the consideration money, that a quit-rent should be reserved and paid to him and his heirs yearly for ever. They objected against this as a disagreeable and unreasonable encumbrance; but were told, that the proprietary being also governor, though he took the purchase money for the land as proprietary, he reserved the quit-rents to be paid for his support as governor; for that government must be supported, and these quit-rents would be the most equal and easy tax, and prevent the necessity of other taxes for that purpose here, as they did in the king's government of Virginia. These reasons induced them to ac-

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quiesce in it. But the proprietary's affairs calling him to reside in England, and the quit-rents, then but few, being all wanted to support him there, a lieutenant-governor became necessary, and also a support for that lieutenant, as the proprietary, through the necessity of his affairs, was unable to support him. The public-house licences and other licences and fees were pitched upon for this second support, and by perpetual laws were given to the governor for the time being. But governors, a sort of officers not easily satisfied with salary, complaining that these were insufficient to maintain suitably the dignity of their station, occasional presents were added from time to time; and those at length came to be expected as of right, which, if conceded to, and established by the people, would have made a third support. Our situation at this time is, that the present proprietaries claim, and enjoy the quit-rents (which were the first support) as part of their private estate, and draw them to England where they reside, remote from their government, supplying their place here by a lieutenant. The lieutenant takes and enjoys the licence money, and other perquisites, which were the second support, and though he has from thirty shillings to three pounds for writing his name only (the secretary being paid six shillings besides for the licence and seal) says, they are only moderate fees in consideration for business done. And now if we do not regularly give those additional presents, which were only the marks of our good will, and tokens of the satisfaction we had in a governor's administration; every thing else that a governor enjoys is forgot, and we are charged both at home and abroad with the heinous crime of presuming to withhold the support of government. Thus we see how soon custom may become a law, how thirsty a thing power is, and how hard to be satisfied: "Claims, as the governor says, will never be wanting," and if the people will give "whenever they are required" to give, they may soon be "stripped of every thing they have a right to enjoy."

The governor is pleased to acquaint us, that all the fees and perquisites of this government do not amount, *communibus annis*, to more than a thousand pounds, meaning, as we suppose, sterling money. This the governor enjoys fully and freely, and we never interfere in his disposition of it, any more than in the proprietaries disposition of the quit-rents. We think this a handsome support for a governor; and though he calls it only moderate fees for business done; yet if he can earn one thousand pounds sterling a year in such fees, the business must certainly be a good one.

On our saying that some proprietaries and governors of petty colonies assume more prerogatives and immunities than ever were claimed by their royal master, the governor grows warm in behalf of the proprietaries, and demands with all the air of a person conscious of being in the right, what instances can you give of that assuming behaviour in your proprietaries? we answer, the present instance; for the king does not claim an exemption from taxes for his private estate, as our proprietaries do. Have they ever claimed any right or prerogatives not granted them by the royal charter, or reserved by that of their father? yes, the right of be-

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ing exempt from taxes for their estate in Pennsylvania, when all their fellow-subjects (for the proprietaries are subjects, though the governor seems to disdain the term) both in England and America, not excepting even the lords and commons of parliament, are now obliged to undergo a tax for the recovery of part, and defence of the rest of that very estate. This right is not granted them by the royal charter, nor could it be reserved by their father's charter. Can you lay to their charge one instance of injustice or severity? This is an act of injustice and severity, to insist that the people shall not be allowed to raise money for their own defence, unless they will agree to defend the proprietary estates gratis. If this be complied with, and the war continues, what shall hinder them another year, when the fifty thousand pounds is expended, to require, that before we are allowed to raise another sum for the same purpose, we shall agree not only to defend their lands, but to plough them: for this their lieutenant may allege the "usage and custom" in Germany, and put us in mind, that we are chiefly Germans. Who can assure us, that their appropriated lands, so long kept untenanted and idle, are not reserved in expectation of some such fortunate opportunity? can other instances, in answer to the governor's uestions be necessary? if he thinks it discreet to insist on more, they may soon be at his service.

We are then desired to turn our eyes on our own conduct, and charged in high terms with "taking upon ourselves great and mighty powers; dispensing with positive laws, and claiming a right of disposing of all public money, a right of keeping our proceedings a secret from the crown, with, as the governor is pleased to say, many others, unknown to an English constitution, and never heard of in the other plantations." A round charge, but not more easily made than answered. The governor allows, "that we have all the powers and privileges of an assembly, according to the rights of the free-born subjects of England, and as is usual in any of the king's plantations in America;" and we neither claim nor practice any but what is usual in some or other of them. We claim no right of dispensing with laws. The right of disposing of our own money, we think is a natural right, and we have enjoyed it ever since the settlement of the province, and constantly been in the exercise of it in every instance, except perhaps in a few, where, on extraordinary occasions, we have chosen to make special appropriation by a particular law. It is also possessed and practised by several other assemblies. We have moreover the right of disposing of the present revenue by positive laws, which have received the royal assent. This natural and legal right, as we contend it is, was never denied us, or called in question, as we know of, but by our present proprietaries. Their ever hearty friend, the late governor's father, who had lived many years among us, and was skilled in our laws, in a solemn speech, recorded in our minutes, mentions this as one of our civil rights, among the other happinesses of our constitution, with which he was thoroughly acquainted. Our inserting therefore in the bill a clause, that the governor should have a voice in the disposition of the money intended to be raised, was partly in consideration

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that the proprietary was, by the bill, to contribute in proportion to his estate, and to avoid unseasonable disputes; but since we are daily more and more convinced that the governor is no friend to our country, and takes a pleasure in contriving all possible methods of expence, to exhaust our funds, and distress our affairs (of which the present exorbitant demand of five thousand pounds, besides what we have already paid, for cutting a road, an undertaking he engaged us in on a computation of its costing eight hundred pounds, and which if this be due must cost us about an hundred pounds per mile) it will become us to be more particularly careful how our public money shall be expended, when the greatest sums which can be raised upon this young colony must fall so far short of what may become absolutely necessary for our common security.

That we claim a right of keeping our proceedings a secret from the crown, another of the governor's groundless accusations, has been twice refuted, and is yet a third time courageously repeated; though all the province knows that our votes and proceedings are every year printed and published, and have been so for these thirty years past and more. Equally groundless are the [many others] which the governor forbears to particularize. Could he have thought of one that had the least apparent foundation, he would not have spared to mention it.

Plans and schemes of aggrandizing ourselves the governor has often charged us with, and now repeats the charge. He affects to consider us as a permanent body, or some particular order of people in the state, capable of planning and scheming for their own particular advantage, distinct from that of the province in general. How groundless this must be, is easily conceived, when it is considered, that we are picked out from among the people by their suffrages, to represent them for one year only; which ended, we return again among the people, and others may be, and often are chosen in our places. No one of us knows a day before the election that he shall be chosen, and we neither bribe nor solicit the voters, but every one votes as he pleases, and as privately as he pleases, the election being by written tickets folded up and put into a box. What interest can such a body have, separate from that of the public? What schemes can a set of men, continually changing, have, or what plans can they form to aggrandize themselves, or to what purpose should they have or form them? If the little power allowed us by the constitution was fixed in our particular families, and to descend to our heirs, as the proprietary power does in their family, we might then be suspected of these aggrandizing plans and schemes, with more appearance of probability. But if any of us had such schemes, the want of a single vote in any election might totally disconcert them, there being no tenure more precarious than that by popular esteem or favor.

The governor next considers what we have said relating to the act for raising county rates and levies, and is pleased to say, that 'he does not see why the proprietary estate in each county is not benefitted in common with other estates, and by the same means.' That the proprietaries estate

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should be excused in a county rate, at least so far as that rate is levied for the payment of assemblymen's wages, appears to us equitable; for it would seem unreasonable to tax an estate to defray their expences, if the possessor had no vote in choosing a representative in that house But we conceive it is widely different in a provincial tax, where the common interest and security of all are concerned; and yet if the proprietaries should purchase estates which have usually been taxed by the county rate and levy act for that purpose, we presume those estates ought to continue to pay their assessments. It was the opinion of the solicitor general in king William's time, that the lords had no right to vote in the elections of a commoner, because they were not contributors to the expences of a knight of the shire or burgess; and they were not contributors to that expence, because they were of another house. But if they purchased lands which were, before such purchase, chargeable with those expences, those lands should, notwithstanding that purchase, continue chargeable therewith by law; although before the act, the lands the lords were seised of, or purchased, were excused from that charge. But though such lands were excused from these rates, will any one from thence allege, that the lords are exempted from paying the national taxes? as for the rest of the expences provided for by that act, we thought, as the proprietary cultivated no lands in any of the counties, but let them lie for a market, he had probably no sheep that might suffer by wolves, poultry by foxes, or corn by crows and blackbirds, &c. and therefore might reasonably be excused from those taxes that were to raise money to destroy such vermin. But on farther consideration, we are willing to give up that point to the governor, and agree that their estates may on other considerations be equally benefitted; concluding withal, that they ought therefore equally to pay. For as to the conditions of consent, the governor mentions, they are merely imaginary, though the governor speaks of them with the same apparent assurance as if he had the contract between the then governor and assembly under hand and seal in his possession. The exempting proviso in that act, the governor says, is 'declarative of the rights of the proprietaries station, of which the people in general might be ignorant.' Be it so then, and let us see what are the words: '*Provided also, that the proprietary and governor's proper estate shall not be liable to be rated or assessed, by virtue of this act.*' We submit. Their estate must not be taxed by virtue of that act, for the purposes intended by that act: 'tis the right of their station, it seems. But is this a reason why they should not be taxed by any other act, for any other purposes, or by another act for the same purposes, when it shall become reasonable and necessary?

There is in the same act, an exemption from the same tax, of all 'unsettled tracts or parcels of land,' belonging to any person whatsoever. Is this too, declarative of the right of such landholders station, and does it expressly declare, that those gentlemen are 'not liable to taxes?' if so, why did not the governor object to that part of our bill likewise, which proposes to tax all located lands, on this occasion, whether settled or un-

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settled. Those plain words, the proprietary estate shall not be liable to be rated by virtue of this act, must be stretched on the rack before they can be extended, as the governor extends them, to a general declaration, 'that the proprietary estate is not liable to taxes.' But he is a dextrous disputer, and can at pleasure change the meanings of the plainest words, and make them signify more or less, as it suits his purpose. As, for another instance; we had asked this question, 'whether, supposing the proprietary estate to be taxed, it would be equitable that he should have a negative in the choice of the assessors, since that would give him half the choice, though he were to pay perhaps not a hundredth part of the tax?' the governor eagerly lays hold of these very loose and uncertain words ['though he were to pay perhaps not a hundredth part'] which are introduced merely for the argument sake, and construes them into a determination of what would be the proprietaries proportion, which he is pleased to agree to, by telling us, 'I think with you that the proprietary tax would not be more than a hundredth part of the whole,' when 'tis plain we had no thought at all of fixing any proportion to be paid by the proprietary estate, or any other estate, being destitute of the proper informations, and having by the bill left that matter to the commissioners and assessors, who were to have before them the constables returns, and to be sworn, or solemnly affirmed, to do equal justice, after informing themselves of the value of estates in the best manner they could, by all the means in their power. But had we mentioned thousandth or ten thousandth part, we make no doubt the governor would have been complaisant enough to think with us in that particular, though we should differ in every thing else.

The governor 'cannot easily conceive,' he is pleased to say, 'that a negative upon a choice is half that choice, or indeed any part of it.' We think a negative may be in effect more than half the choice, and even amount to the whole, if it be repeated till there is no choice left but that which the possessor of the negativing power chooses. The peers of Great Britain have no vote, nor can they intermeddle in the election of a commoner; and yet the commons claim it as a fundamental right to subject their estates to taxes by a bill, the whole of which the lords must either refuse or pass. And that august body, who contribute so largely to the public stock, acquiesce in it as a sufficient security for their estates. But our proprietaries are unhappily of different sentiments, and cannot think themselves safe, unless their whole estate here be entirely exempted, and the burden of defending it become an additional weight to the taxes on our mother country, and on the freemen of this and the neighbouring colonies.

The governor is grievously offended at an expression in our message, that we have in our bill allowed him a share in the disposition of the fifty thousand pounds; and thunders over us in a storm of angry questions, 'Is it from you, gentlemen, that I derive the right of governing this province, or from your allowance that I have a voice in the legislature? are you the sovereign disposers of power? have you the right to give and take away at

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pleasure? if not, whence that lofty claim of allowing the governor a share in the disposition of the public money?' if the governor will but have a little patience, we shall endeavour, by a few cool sober questions, to explain this matter to him as well as we are able. Are not all money bills to take their rise in the house? can he possibly have any share in the disposition of public money if it is not raised? and can it be raised without our allowance? has the governor a right to make any amendments to a money bill? if, therefore, a clause is put into such bill, giving him a voice in the disposition of our money, must not such clause be first allowed by us to be inserted? to what purpose then were all those haughty questions? we shall answer them in a few words. We are not 'the sovereign disposers of power;' nor does the governor 'derive from us the right of governing this province;' it were a vain thing in us to say it, since his being our governor would alone be a sufficient proof to the contrary.

The governor is pleased to say, that he studiously avoided every thing that could renew the disputes subsisting between us; and earnestly recommended the same temper of mind to us. This may be right, so far as relates to his first speech at the opening of the session; but in his amendments to our bill, it appeared to us, that he studiously proposed every thing that he thought could disgust us, in hopes of engaging us in some other dispute than that on taxing the proprietaries estate, and of making the bill with the session ineffectual and abortive. Why else, among other things, did he strike out that harmless part of the preamble, which gave, as a reason for the bill, the exhausting of our treasury by our late expensive grants of provisions, &c. to the king's use. He did not choose the bill should mention any thing we had done, lest by that means it should reach the royal ear, and refute his repeated accusations that we 'had done nothing, nor would do any thing, for defence of the country;' when he knows in his conscience we have given all in our power; and it was well we had it in our power to give something, otherwise neither the British nor New England troops would have had the provisions we furnished; for could the governor possibly have done it, we have reason to believe he would have defeated our grant; he can no more bear to let us do any thing commendable, than he can bear to hear what we have done mentioned.

It is true the governor recommended a good temper of mind to us; he can make plausible speeches, that will read well in other places where his conduct is not known. Indeed they appear not so much to be made for us as for others; to shew the ministry at home his great zeal for his majesty's service and concern for the welfare of this people! and to recommend himself, as it should seem, to some better post hereafter, rather than to obtain the present points that seem to be persuaded. For of what avail are the best speeches, not accompanied with suitable actions? he has recommended dispatch in very good words, and immediately hatched some dispute to occasion delay. He can recommend peace and unanimity in fine and moving language, and immediately contrive something to provoke and excite discord; the settled scheme being, not to let us do any thing that may

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recommend us to those with whom he would ruin us. He would appear to be in great earnest to have something done, and spurs violently with both heels, but takes care at the same time to rein in strongly with both hands, lest the public business before us should go forward. When we offered him to raise money on the excise, a method long in use, and found easy to the people, he quarrelled with us about the time of extending the act, complained it would raise too little, and yet was for shortening the term. Obsolete instructions were mustered up against it, though acts of the same kind had been since passed by the crown. Acts of parliament made for other colonies were to be enforced here, and the like. Then he called out for a tax, which the proprietaries themselves (in their answer to our representation) allowed to be the most equitable way of raising money; thinking, it is like, that we should never agree to a tax But now when we offer an equitable tax on all estates real and personal, he refuses that, because the proprietaries are to be taxed!

The governor thinks himself injuriously treated by our request, 'that he would not make himself the hateful instrument of reducing a free people to the abject state of vassalage,' and asks, 'what grounds have you, gentlemen, for this heavy charge? what laws of imposition abhorrent to common justice and common reason have I attempted to force down your throats?' &c. A law to tax the people of Pennsylvania to defend the proprietary estate, and to exempt the proprietary estate from bearing any part of the tax, is, may it please the governor, a law abhorrent to common justice, common reason, and common sense. This is a law of imposition that the governor would force down our throats, by taking advantage of the distress of our country, the defence of which he will not suffer us to provide for, unless we will comply with it. Our souls rise against it. We cannot swallow it. What other instance would the governor desire us to give of his endeavouring to reduce us to a state of vassalage? he calls upon us for an instance. We give him the very law in question, as the strongest of instances. Vassals must follow their lords to the wars in defence of their lands; our lord proprietary, though a subject like ourselves, would send us out to fight for him, while he keeps himself a thousand leagues remote from danger! vassals fight at their lords expence, but our lord would have us defend his estate at our own expence! this is not merely vassalage, it is worse than any vassalage we have heard of; it is something we have no adequate name for; it is even more slavish than slavery itself. And if the governor can accomplish it, he will be deemed the hateful instrument (how much soever he is disgusted with the epithet) as long as history can preserve the memory of his administration. Does the governor think to exculpate himself, by calling upon us to prove him guilty of crimes we have never charged him with? whose liberty have I taken away? whose property have I invaded? if he can force us into this law, the liberty and property, not only of one man, but of all men in the province, will be invaded and taken away; and this to aggrandize our intended lord, encrease and secure his estate at our cost, and give him the glorious privilege that

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no British nobleman enjoys, of having his lands free from taxes, and defended gratis. But what is the loss of even liberty and property, compared with the loss of our good name and fame, which the governor has, by every artifice, endeavoured to deprive us of, and to ruin us in the estimation of all mankind. Accusations secretly dispersed in the neighbouring provinces and our mother country; nameless libels put into the hands of every member of parliament, lords and commons! but these were modest attacks compared with his public messages, filled with the most severe and heavy charges against us, without the least foundation; such as those in his message of the sixteenth of May last; some of which, though then fully refuted, he now ventures to renew, by exclaiming in these terms, 'had you any regard for your bleeding country, would you have been deaf to all the affectionate warnings and calls of his majesty? and would you have refused the proper, necessary and timely assistance to an army sent to protect these colonies?' for is it not well known that we have essayed every method, consistent with our rights and liberties, to comply with the calls of the crown, which have frequently been defeated either by proprietary instructions or the perverseness of our governor? did we not supply that army plentifully with all they asked of us, and even more than all? in testimony of which, have we not letters from the late general, and other principal officers acknowleging our care, and thanking us cordially for our service? these things are well known here; but there is no charge that the governor cannot allow himself to throw out against us, so it may have the least chance of gaining some small credit some where, though of the shortest continuance.

In fine, we are sincerely grieved at the present unhappy state of our affairs; but must endeavor patiently to wait for that relief which providence may, in due time, think fit to favor us with, having, if this bill is still refused, very little farther hopes of any good from our present governor.

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The governor's Reply, September 24, 1755.

GENTLEMEN,

IN the course of my short administration among you, I have often regretted, that at a time when it becomes every one of us to be consulting and acting for the public good, you should still delight to introduce new and unnecessary disputes, and turn the attention of the people from things of the last importance to their future safety.

Your very tedious message of the nineteenth of August, is a sufficient proof of your temper of mind; it is indeed of such an inflammatory nature, that did not the duties of my station and justice to the people require me to take some notice of it, I should think it beneath me as a gentleman to make any reply to a paper of that kind, filled with the grossest calumny and abuse, as well as the most glaring misrepresentations of facts; and what I shall now say in answer to it would have been said in your last sitting, had you not adjourned yourselves so soon after the delivery of it, that I had not time.

You set out with claiming it as a privilege to have your bills granting supplies passed as they are tendered, without amendments, and say, 'it is far from being an ordinary method to receive or debate upon amendments offered by the governor.'

This claim is not warranted by the words of the charter, nor by the usage of former assemblies, and you yourselves must know, that from the first settlement of the province to the latter end of the administration of Mr. Hamilton, my immediate predecessor, the governors have occasionally amended bills for raising money, and their right of doing so was never till then contested.

Notwithstanding all you have said as to my offer of lands to the westward, I am persuaded unprejudiced men will see it in its true light, and be convinced it was made with a good intention, and under a proper authority; I mentioned my commission of property in contradistinction to the commission of government, as that under which I granted lands upon the common and ordinary occasions, which you seem to think was done under the other. But as to the offer in question, I had such directions from the proprietaries as were sufficient to justify me in making it, and would have been obligatory on them to confirm the same to the adventurers; and this I did then, and still do, think a good authority.

As you do not profess to understand law, I am not surprized at your quoting an abridgment instead of the case abridged. Viner, who is no authority, may have the words you mention for aught I know, and may be of opinion that the king can purchase and hold lands in his private capacity, but in that he has the misfortune to differ from my lord Coke, and other writers of note and authority in the law.

Your answers to what you call my round charge, and to what you afterwards call my haughty questions, are, by no means, conclusive; I grant

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that no public money can be raised, nor any clause enacted for the disposition of it, without your consent, but is not mine equally necessary? whence is it then that I should be thought more obliged to you for a voice in the disposition of public money, than you are to me, seeing the obligation (if any) is reciprocal; the money remaining in the people's pockets cannot be taken from thence, till I think a law necessary for that purpose, and shall I have less power over it after it is raised, and in the public treasury, than I had before? the common security of the people requires that they should not be taxed but by the voice of the whole legislature, and is it not equally for their security that the money when raised should not be disposed of by any less authority? Your claim therefore of a natural exclusive right to the disposition of public money, because it is the people's, is against reason, the nature of an English government, and the usage of this province, and you may as well claim the exclusive right to all the powers of government, and set up a democracy at once, because all power is derived from the people; and this indeed may be the true design.

As to what you insinuate concerning the enormous growth of the proprietary estate, I shall oppose plain facts to your presumptions. By the original concessions and agreement between the late Mr. William Penn and the first settlers, nine-tenths of the land were to be granted to the adventurers, and the remaining tenth to be laid out to the proprietary; but instead of this, the late proprietary, out of the lands purchased of the Indians in his time, contented himself with taking up but a very small part of what he might have done under that agreement; and out of the three Indian purchases made by his sons since his death, in the two first, consisting of four million acres of land, they did not survey upwards of twenty-five thousand acres, and those neither of the richest nor best situated; and in the last, which is by far the largest of all, no surveys have been made for their use, but they gave early directions, that the settlers should, as they applied, take their choice of the best lands, and accordingly great numbers of people are seated on these lands, to their entire satisfaction. As to their manors and appropriated tracts, it is well known that they are mostly settled by persons without leave or title, and that these pay their share of all taxes; in short, gentlemen, if instead of setting the proprietaries forth as encreasing their estates, and using their tenants like vassals, you had represented them as forbearing with them, and using no compulsory methods for the obtainment even of their just debts, and that for these and many other instances of their kind usage of them, the proprietaries are entitled to the character of good, nay of the best landlords, you had done them no more than justice, and said only what is notorious to all that know their treatment of the people in this province.

I can by no means allow you to argue justly in saying that the proprietaries ought to submit their estate to be taxed by assessors chosen by the people, because they are sworn or solemnly affirmed to do equal justice. When you are taxed by these assessors, it is by persons who may be considered as your equals, and who are interested to do you justice, as you in

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your turns may become their assessors. But the proprietary estate and interest being considered as separate from yours, because the proprietaries are a separate branch of the legislature, they can never in that view be taxed by any persons, unless those whose interest it is to save their own estates by throwing an unequal burden upon the proprietaries; and you must know that this is the very consideration upon which the law in certain cases excepts against both the judgment and evidence of interested persons, lest they should be influenced therein, even against the solemnity and obligations of an oath.

You say, that "all estates in Britain, and her colonies, now bear, or must bear, a tax to free the proprietary estate from encroachments and incumbrance." Invidious and ungrateful insinuation! is there nothing but this at stake! is it for a tract of unsettled country, belonging to the proprietaries of this province, that the eyes of all Europe are turned upon this continent, and such mighty preparations making both by sea and land; or, gentlemen, can you think that if the enemy are suffered to keep up fortifications in any private estate whatsoever within the limits of this province, you could preserve your estates, or the English nation preserve its dominions? what end then can such insinuations serve, but to cool the ardor of his majesty's good subjects in recovering the country unjustly taken from them, as if they were contending for a thing of no consequence, which is but too much the opinion of many amongst us, raised and confirmed, no doubt, by your strange conduct.

You charge me with contriving all possible methods of expence to exhaust your funds, and distress your affairs, and give an instance of an exorbitant demand of five thousand pounds for cutting the road for the use of the army, an undertaking you say, I engaged you in on a computation of its costing only eight hundred pounds. How could you stumble on a matter which, on a very slight examination, must appear to be without the least foundation? your own minutes will shew that you resolved to bear the charge of cutting two roads, one to Wills's creek, and the other to the Monongahela, and in one of your messages to me, wherein you enumerate your meritorious acts, you set this road to the Ohio particularly forth in such a manner as to have it believed, that it would prove an heavy expence, which, nevertheless, you would not decline to bear as the king's service required it; and now you insinuate, that had you known it would have cost more than eight hundred pounds, you would not have undertaken it, and this for no other reason than to lay to my charge a pretended estimate, of which I am totally ignorant, having never seen or heard of one. The sum of eight hundred pounds might have been mentioned as what it would cost in some men's private opinion, but not upon an estimate of the commissioners, nor as such sent to me. To be plain, gentlemen, it was the resentment and menaces of the officers in the army, entrusted with that part of the king's service, because the work was not begun in time (and it could not have been begun sooner by me, as you would not sooner comply with my request) it was I say your dread of having proper representations made of your con-

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duct at home, and of an armed force being used to oblige the inhabitants to do this necessary work, and nothing else, that induced you to engage to bear the expence; and had the two roads been cut, they would have cost a very great sum indeed, but by a representation I caused to be made to the general, he consented to drop the road to Wills's creek, and instead of extending the other to the Ohio, to order it to be opened no farther than to the Crow-foot of Ohiogainy, which last saved the clearing of many miles. He likewise consented, that the road should not be made so wide by one-third as the quarter-master-general had given directions for. These were great savings to the province, which, added to the regulations that were made in the price of provisions and liquor, and in the hire of the waggons, would at any other time have induced you to speak in commendation of my care and frugal use of the public money, and not to charge me with a demand that I never made, nor indeed could it have been then made by any one, because the accounts were not come in, and now that they are delivered to you, it does not appear that they will amount to the sum of three thousand pounds, which is not extravagant, when you consider the distance and expedition required in the work. The commissioners, instead of being reproached with extravagance, have a right to the amplest acknowlegments for their exposing their persons to such imminent danger, and carrying on the work with so much spirit, and so becoming a zeal; and though my recommendations may not have much weight with you, yet as they were engaged in this hazardous work by my intreaties, justice requires they should be handsomely rewarded for their indefatigable attendance and generous advance of their own private fortunes.

You have, in the message now before me, and in several others, taken great pains to infuse into the minds of the people, particularly the Germans, that the government have designs to abridge them of their privileges, and to reduce them to a state of slavery. This may, and will, alienate their affections from his majesty's government, destroy that confidence in the crown and its delegates, which, at this time, is particularly necessary, and render all the foreigners among us very indifferent as to the success of the French attempts upon this continent, as they cannot be in worse circumstances under them, than you have taught them to expect from the king's government.

This you may, with your usual confidence, call duty, loyalty, and affection to his majesty, but I am convinced it will not be esteemed such by his majesty and his ministers, before whom all these matters must be laid.—And how the innocent people of this province may be affected thereby, time will shew.

You are pleased to tell me, that I am destitute of skill and abilities for my station, and have not the spirit of government in me. Gentlemen, I have never made any boast of my abilities, nor do I pretend to know what you mean by the spirit of government. But this I know, that if I had enough of the spirit of submission, I was early given to understand, by some of your messages, that you would have then pronounced me well

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qualified for the administration of this province, even without the assistance of instructions, or the advice of my council.

To your spirit of government, however, or in other words, your inclinations, to encrease and render permanent your own powers, is to be attributed all your late extraordinary proceedings, and the defenceless state of the province; for the sake of gratifying this, you scruple not to stir up his majesty's subjects against his government, forgetting all duty to your sovereign, and all decency to those in authority under him.

Your answers do not exculpate you from my charges against you for taking on yourselves great and mighty powers, and since you call upon me to particularize them, I shall gratify you. You have created a paper currency of your own, and ordered the collectors of excise, and the trustees of the loan-office to receive it against law; you pay your own wages out of the provincial money, when the law requires and provides for their being paid in another manner. Notwithstanding it is declared by law, that no persons indebted on mortgages to the loan-office shall be delinquent in their payment above a year, and your committees are enjoined, in the settlement of their accounts, to reckon all such outstandings as cash in the trustees hands, yet this you have dispensed with in the settlement of the trustees accounts year after year, and suffered the borrowers to continue in arrear for years, many of them for not less than ten. A practice tending to depreciate the value of the money, and greatly injurious to the borrowers. And lastly, instead of the oaths required by law to be taken to his majesty by all men in public office, you have taken upon you to administer the affirmation to your clerk, and several of your own members, though not of the people called quakers, not at all scrupulous against taking an oath, which deprives his majesty of the security provided by law to be given by such as hold offices, or act in public trusts.

You have often mentioned what you have done to promote the success of his majesty's arms under general Braddock, and for the defence of the province, and say, you have letters from the late general, thanking you for your service; the truth of this I must beg leave to question, as the late general was too honest to say one thing to you, and another to the king's ministers. He might acknowledge the services of particular men, but how you can take those to yourselves as an assembly, when you had no hand in what was done, I am at a loss to know. I think it will not be doubted, but that had you in time opened the proper roads, raised men, and provided carriages and necessary provisions for the troops, as this was the only province able, in the general's situation, to furnish him with them, we might now have been in peaceable possession of fort Duquesne.

In fine, gentlemen, I must remind you, that in a former message you said you were a plain people that had no joy in disputation. But let your minutes be examined for fifteen years past, not to go higher, and in them will be found more artifice, more time and money spent in frivolous controversies, more unparalleled abuses of your governors, and more undutifulness to the crown, than in all the rest of his majesty's colonies put together.

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And while you continue in such a temper of mind, I have very little hopes of good, either for his majesty's service, or for the defence and protection of this unfortunate country.

The assembly's Rejoinder, Sept. 29, 1755.

May it please the Governor,

THE sincerity of the governor's regret at the 'unnecessary disputes' which subsist between us, the very first paragraph of his message gives us some room to question; since it begins with a new charge that those disputes are of our introducing, and that we delight to introduce them to turn the attention of the people from 'things of the last importance to their future safety.' This charge itself seems designed to introduce another unnecessary dispute, since all that are acquainted with our disputes know by whom they were introduced, and who it is that delights in disputing.

That our message of the nineteenth of August was 'a very tedious' one to the governor we make no doubt. It must have been so in the matter, and might probably be so in the manner. There was too much truth in it, and too little flattery. We suppose too, that the task of answering it might be as tedious as the message itself; since, to shorten the work, he has passed over a number of the most important points, and all our reasonings upon them, without attempting an answer. And we think he cannot justly complain of want of time to answer that message, since we sat four days after delivering it, adjourned for near four weeks, and had been met again nine days before we received the answer, which, now we have it, we find to be such an one as might have been made in a few hours. But had our message really been 'filled with the grossest calumny and abuse,' as the governor says it was, we cannot think, with the governor, that it would therefore have been 'beneath him as a gentleman to make any reply to it.' If we were of that sentiment, we should make none to the message we are now considering. We think, that what is beneath a gentleman, is, not the answering of calumny, but the making use of it. And we wish, for the governor's sake, that he had been of the same opinion; for he might then probably have treated us in a manner more suitable to his character as a gentleman, and had more regard to the preservation of that character.

The governor denies, that our claim of the privilege "of having our bills granting supplies passed as they are tendered without amendments, is warranted by the words of the charter;" though it gives us "all the powers and privileges of an assembly, according to the rights of the free-born subjects of England, and as is usual in any of the king's plantations in America." If the free-born subjects of England do not exercise this right by their representatives in parliament, and it is not usual in any of the king's plantations in America; then we are in the wrong to claim it, and the governor is right in denying it. But facts are for us; and these, in this case,

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the governor does not deny. Our predecessors may in some few instances have waved that right, but they have never given it up, nor will, as we hope, to those that shall succeed us. We trust they will rather be more cautious of suffering such dangerous precedents, when they see how fond governors are of seizing the advantage for diminishing our privileges.

We agree with the governor, that what we have said as to his offer of lands to the westward, will not hinder unprejudiced men from seeing it in its true light; we think our remarks have rather contributed to that end, and even assisted those that might before be prejudiced; but are at a loss to conceive how either the prejudiced or unprejudiced could be "convinced" the offer was "made under a proper authority," when neither of the governor's commissions, not even that which he calls "the foundation of property," gave him such authority; and he is now reduced to the necessity of dropping them, and recurring to private instructions, never mentioned before; of which none can judge till he shall think fit to produce them. But all may judge how well he has acquitted himself of the imputation of attempting to impose on the public, by introducing the commission of property as an authority for the offer; so we shall spare the governor on that head, and press it no farther.

If the governor had given himself the trouble of looking into Viner, under the title we mentioned, he might there have found the case abridged referred to; we, it seems, not being lawyers, quoted improperly; but he, though a lawyer, refers us, to lord Coke, without page, case, or volume; and to "other writers of note and authority in the law," without so much as naming their names; so that we are utterly at a loss where to find the law part of his messages; but the politicks and the calumny we can easily trace to their fountain head, though he does not vouchsafe to quote it at all. The perfect sameness of sentiment, and even of expression, are sufficient to show, that they are all drawn from a late famous libel, entitled, "*A brief state of the province of Pennsylvania;*" an author, of whom, if we do not say, as the governor says of Viner, that he has no authority; yet we may say, that his authority diminishes daily, the more we see of his works.

The governor is pleased to say, that "the common security of the people requires that they should not be taxed but by the voice of the whole legislature; and that "we might as well set up a democracy at once, as claim an exclusive right to the disposition of public money." To this we beg leave to answer, that though we are not so absurd as to "design a democracy," of which the governor is pleased to accuse us; yet in this particular, all our late attempts to raise money "for the common security of the people," being obstructed and defeated by the governor's having a voice in that matter, would rather induce us to think, that his having such a voice, is not best for their security; and such a conduct in a governor, appears to us the most likely thing in the world to make people incline to a democracy, who would otherwise never have dreamt of it.

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But the governor is pleased to tell us, that "our claim of a natural exclusive right to the disposition of public money, because it is the people's, is against reason, the nature of an English government, and the usage of this province." He has, however, never produced that reason to us; and we still think, that as every man has, so every body of men have a natural right to the disposition of their own money, by themselves or their representatives; and that the proprietary's claim of a voice in the disposition of money to which he will contribute no part, is a claim contrary to reason. The wisdom of the crown has thought fit to allow different constitutions to different colonies, suitable to their different circumstances; and as they have been long settled and established, we apprehend that if the governor could have power to unsettle them all, and make in every one such changes as would be necessary to reduce them to a conformity with his idea of an "English government," the reformation would be productive of more inconvenience than advantage. The general "usage of this province" in the disposition of public money, was ever what it now is; and as the province has flourished with it, and no inconvenience has attended it, we hope it will still continue. Particular laws may, in a very few instances, have given the disposition of particular sums to the governor, or to commissioners, for particular services; but a few such instances do not make an usage, and the governor must in that point have been greatly misinformed.

It is agreed, that in the concessions mentioned by the governor, the proprietary reserved in every hundred thousand acres ten to himself; but then (to make the governor's "plain fact" a little plainer) he was to have it by lot, and not by choice; the quantity so reserved was to lie but in one place; and he was "bound to plant or man it within three years after it was set out and surveyed;" or else (by the next concession) it was "lawful for new comers to settle thereupon, and he to go higher "up for his share." This might induce him not to take up more than he could conveniently settle; but can give his successors no right to pick here and there the best vacant pieces among the settlements, excluding other rights; nor to keep the land-office shut, as was done after the second mentioned purchase, till they had garbled the best tracts for themselves and dependants, and left little besides rocks and barren mountains for the rest of the people. The third and last purchase being made but the last year, and the land mostly exposed to, or, as the governor has often informed us, in the hands of the enemy, we are surprized to hear that "great numbers of people are seated on it to their entire satisfaction;" and more so, that the proprietaries manors and appropriated tracts are mostly settled by persons that pay their share of all taxes. If this be so, we must own ourselves as much unacquainted with the state of his lands, as we are with the state and management of the land-office, which of late, indeed, is pretty much a mystery. That the proprietaries are intitled to the character of the best landlords, we can by no means presume to say with the governor; since his majesty's lands are granted without purchase money, on half the quit-rent, and the quit-rents

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are applied to the support of government and defence of the country; we cannot therefore but be of opinion, that the king is a much better landlord.

If the governor would please to consider, that it does not fall to the share of perhaps one man in five hundred to be an assessor during his whole life, and that the chance of being favored or not by a succeeding assessor, as he himself shall behave in that office, is proportionably small; and that the very little which can possibly be saved in his part of the tax, by unjustly enhancing that of the proprietaries, is a matter next to nothing; the governor certainly cannot have so ill an opinion of mankind, as to believe these temptations can be sufficient to induce a commonly honest man to forswear himself; and assessors are seldom men of the meanest characters for integrity. But surely, a security that all the peers in Britain think sufficient with regard to the equity of taxation on their estates, might be confided in by our proprietaries; unless the people here are much more depraved than we can possibly conceive them to be.

Our argument, that, if all the estates in Britain and her colonies now bear or must bear a tax to free the proprietary estate from encroachments, that estate itself ought not to be exempted, the governor calls "an invidious and ungrateful insinuation!" and asks, "is there nothing but this at stake! is it for a tract of unsettled country, belonging to the proprietaries of this province, that the eyes of all Europe are turned upon this continent, and such mighty preparations making both by sea and land? or, gentlemen, can you think that if the enemy are suffered to keep up fortifications in any private estate whatsoever within the limits of this province, you could preserve your estates, or the English nation its dominions? what end then can such insinuations serve, but to cool the ardor of his majesty's good subjects in recovering the country unjustly taken from them, as if they were contending for a thing of no consequence, which is but too much the opinion of many amongst us, raised and confirmed no doubt by your strange conduct." Had we asserted that the proprietary estate only was in danger and argued thence, that estate alone ought therefore to pay for its recovery or security, all this strain of the governor's eloquence might then have been very just and proper: but, may it please the governor, we did think there was something else at stake; we thought other estates in danger, and therefore offered a very large sum, as our share of the expence, in the bill for granting fifty thousand pounds to the king's use. But we thought the proprietary estate at least as much in danger as any other estate, and therefore imagined it ought to pay its proportion towards the expence of its own security. The governor it seems thinks otherwise, and because other estates are likewise in danger, the proprietary estate ought to be exempted; and unless we will agree to recover and defend that gratis, we shall not be permitted to raise money for the defence of our own estates, our neighbours, or our sovereign's dominions. This is our present situation, and we cannot help it:

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for the proprietary instructions are, it seems, as unalterable as the laws of the Medes and Persians. But let it be known to them, and to all, it is not our insinuation, invidious as it may seem to the governor, and ungrateful to his ears, that cools the ardor of his majesty's good subjects; but if any thing cools that ardor, it must be the fact insinuated, the proprietaries claiming that invidious and odious distinction, of being exempted from the common burdens of their fellow-subjects. If there be any who think the nation is contending for a thing of no consequence, it must be those who refuse to contribute their share, and not we who offer largely—and that opinion in others, if such an opinion there be, must be raised and confirmed by the governor and proprietaries strange conduct, and not by ours.

The governor says, we 'lay to his charge a pretended estimate (of the expence of cutting the roads) of which he is totally ignorant, having never seen nor heard of one.' Is it possible that the governor can have forgotten it? he told us in his message of the eighteenth of March, that he had 'appointed commissioners to reconnoitre the country, mark out where such roads might most conveniently be made, and make report to him of their proceedings, with an estimate of the expences that would attend the opening and clearing them.' On the application of the governor, in that message, the house sent up a bill, giving twenty-five thousand pounds to the king's use, wherein, among other things, the clearing of road for the king's service was provided for. But, may it please the governor, did the commissioners never comply with their instructions, and make that estimate? or, if they made it, did the governor never lay it before the house? 'tis true we have not that estimate now in our possession; it was returned again to the governor; but we all remember the sum, and that it was eight hundred pounds. If it was indeed, as the governor says it might possibly be, 'only some men's private opinion,' yet it was an estimate, and sent to us by the governor; whether made by the commissioners, or by others, we have not said (though we think it was by the commissioners) nor is it material; however, we have remaining in the house a subsequent letter from one of the commissioners, to the secretary, dated May the third, which says, 'We sent you a draught of the road, both to the waters of the Yohiogani and to the Camp, with all the principal places marked that occurred to us, with the amount of the charges of laying out both, and an estimate of the expence of opening and bridging the road to the Yohiogani from the Tuscarora mountain; that to the Camp will not cost so much in proportion to its length, because it is less hilly; but we expect amendments upon it, so as to come into the other near the top of Sideling hill, and avoid two crossings of Juniata, and also to cut off several miles between the Devil's hole and the Camp. Both roads will leave little of fifteen hundred pounds; for it is impossible to tell what expence unexpected occurrences will arise to.' By this it appears, that an estimate was made by the commissioners, and that the governor either 'saw or heard of it' seems probable, since he sent down this very letter to the house; at least he must have heard of the second estimate, contained in this letter, that 'both roads would leave lit-

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tle of fifteen hundred pounds.' The house however voted still to bear the expence of cutting both roads, though the first sum was nearly doubled, and the refusal of their bill by the governor would make it more difficult to be complied with. We have also in our hands another letter from the same commissioner, dated fifteen days after the former, wherein, after more experience in the work, he makes a third estimate, judging that the 'expence of opening both roads will be little under two thousand pounds.' This estimate the governor must surely have 'seen or heard of,' since the letter is to himself, and by him laid before us. After all these estimates gradually rising from eight hundred to two thousand pounds, the design of opening one of the roads was dropt, the intended breadth of the other was reduced one-third, its intended length shortened, and even that shorter extent never completed; and yet though it was supposed we had paid near one thousand pounds in money and provisions, we were given to understand that five thousand pounds more was wanted. Had we not reason to be surprised at this; and to suspect some extravagance in the management?

But the governor is pleased to tell us, not only that we charged him with an estimate that he never saw, but likewise that we 'charged him with a demand that he never made.' We happen, however, to have the original letter from his commissioners, which he laid before the house on the ninth of August, wherein are these words: 'Shippensburg, August 4, 1755.—Honored sir, We have appointed a meeting of the commissioners for the roads leading to the Ohio, at this town to-day, in order to fall upon measures to provide money for the payment of the labourers, &c. employed in the service of the roads; and we have thought of this expedient (with submission to your honor's better judgment) that some person or persons should be appointed by your honor to bring up money, and to be satisfied with our settlement of the accounts. We cannot at present inform your honor of the just sum of money that will be wanted for the above purpose; but we think it will amount to five thousand pounds. As the people are much in want of money, we shall be glad how soon the money can be sent, &c.' This letter was signed by the six commissioners, and sent down to the house by the governor; to what end, unless that we might furnish him with the sum required? yet now he knows nothing of this demand, and is pleased to say, 'it could not have been then made by any one, because the accounts were not come in,' as if a demand in part was a thing impossible, before a settlement. The accounts however are at length come in, and under examination, and it will now soon be seen, what cause we shall have to commend the governor's or the commissioners frugality: and we hope we shall not be backward to do it justice.

The governor's judgment of our motives to engage in this work of opening the roads, seems to us a very uncharitable one, but we hope to find more equitable judgment elsewhere. We are obliged to him, however, for owning that we did engage in it at all. For as he is pleased to lay it down as a maxim that we are very wicked people; he has shewn in other instances, when we have done any good, that he thinks it no more injustice to us to

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deny the facts, than now to deny the goodness of our motives. He would however think himself ill used, if any part of his zeal in that affair was ascribed to the menaces directed to him; or to a view of accommodating by the new road the lands of the proprietaries new purchase, and by that means encreasing the value of their estate at our expence.

The governor is next pleased to tell us, 'that we have taken great pains to infuse into the minds of the people, particularly the Germans, that the government have designs to abridge them of their privileges, and to reduce them to a state of slavery. That this may, and will alienate their affections from his majesty's government, and destroy that confidence in the crown and its delegates, which, at this time, is particularly necessary, and render all the foreigners among us very indifferent as to the success of the French attempts upon this continent, as they cannot be in worse circumstances under them, than we have taught them to expect from the king's government.' And a little lower he tells us, 'that we scruple not to stir up his majesty's subjects against his government, forgetting all duty to our sovereign, and all decency to those in authority under him.' These are very heavy charges indeed! But can the governor possibly expect that any body will believe them? Can he even believe them himself? We can indeed truly say it with confidence, and the governor may, if he pleases, call it 'our usual confidence,' that there is not a more dutiful, loyal, and affectionate people to any prince on earth, than are the people, not only of this colony, but of all the other British colonies in America, to the best of kings, his present majesty; and we cannot therefore forbear to say, that this charge is a virulent calumny, destitute of all truth and probability. But what must we do to please this kind governor, who takes so much pains to render us obnoxious to our sovereign, and odious to our fellow-subjects? Must we bear silently all these abuses? 'tis too hard. But if we deny his accusations, and prove them false, this he calls, 'forgetting all decency to our governor;' and if we complain of his treatment, that is, 'stirring up his majesty's subjects against his government.' No; may it please the governor, we make a wide distinction between the king's government, and the governor's conduct; and we have reason. Every deputy governor is not the prince, and some are very indifferent representatives of him. Every dislike of a governor's behaviour is not a dislike of government; nor every censure of a governor, disaffection to the king. And indeed the more a people love their prince and admire his virtues, the less they must esteem a governor who acts unlike him.

That there is a design in the proprietaries and governor, to abridge the people here of their privileges, is no secret. The proprietaries have avowed it in their letter to the house, dated London, March 2, 1741. The doctrine that it is necessary, is publicly taught in their *Brief State;* and the governor himself has told us, that we have more than is suitable for a dependant colony. It is these proceedings that give jealousy to the people, but do not, however, alienate their affections from his majesty's government, though they may from the proprietaries. Their 'confidence in the crown' is as

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great as ever; but when the delegates of power are continually abusing and calumniating the people, it is no wonder if they lose all 'confidence' in such delegates.

The governor can think himself at liberty to tell us, that 'we stir up his majesty's subjects against his majesty's government, forgetting all duty to our sovereign;' and yet if we only tell him, that the difficulties he meets with, are not owing to those causes, which indeed have no existence, but to his own want of skill and abilities for his station, he takes it extremely amiss, and says, 'we forget all decency to those in authority.' We are apt to think there is likewise some decency due to the assembly, as a part of the government, and though we have not, like the governor, had a courtly education, but are plain men, and must be very imperfect in our politeness, yet we think we have no chance of improving by his example. Skill and abilities to govern, we apprehend fall to the share of few; they may possibly be acquired by study and practice, but are not infused into a man with his commission; he may without them be a wise and able man in other affairs, and a very good and honest man in general. But those 'who stir up his majesty's subjects against his government, and forget all duty to their sovereign,' as the governor says we do, must be traitors and rebels, a character that includes the highest folly with the greatest wickedness. The world will judge which of these charges is most decent, as well as most true, and we shall leave it to their judgment.

The governor is pleased to repeat the charge of our "taking upon us great and mighty powers," and to say, since you call upon me to particularize them, I shall gratify you. We apprehend it is rather to gratify himself; for lest these particulars should seem to be brought in improperly, the governor says, we call upon him for them. We cannot find any such call in our message; but if there were, it was a very unnecessary one; for the governor has so accustomed us to find some of these charges in almost every message, and so delights in renewing them, after repeated refutations, that we might have expected them as matters of course. You have created a paper currency of your own, &c. This stale charge was fully refuted in our message of the seventeenth of May last, and now repeated without taking the least notice of that refutation. You pay your own wages out of the provincial money, when the law requires and provides for their being paid in another manner. This charge is premature, as we have not yet paid ourselves any wages out of any money. We gave the governor, indeed, five hundred pounds out of this provincial money, though the law requires and provides for his being supported by licences of public-houses, fees, &c but that he might be sure of being right, he took both. The plain state of the matter is this: by the county levy act, the commissioners and assessors are directed "to adjust and settle the sum and sums of money which ought of necessity to be raised yearly, to pay for representatives service in general assembly, and to defray the charges of building and repairing of court-houses, prisons, work-houses, bridges, and causeways, and for destroying of wolves, &c. and to lay a tax for these purposes." But

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other acts of assembly having directed that the provincial money, arising from the loan-office and excise, "shall be disposed of as the assembly of this province shall direct and appoint," former assemblies have, for many years past, paid provincial charges, and the public salaries out of that provincial money, and among others, their own small wages. Hence it happened, that the wages being otherways paid, the commissioners and assessors found no necessity of raising a tax for that purpose, and therefore have not done it, being no more obliged to do it without such necessity, than to tax for building court-houses when they have them already built, or to repair them when they need no repairs; or to pay for wolves heads when none are killed. As to the other charges of not keeping the borrowers in the loan-office strictly up to their yearly payments as the law required, we beg leave to say, that we cannot think this house is strictly accountable for all the faults of their, any more than the governor for the faults of his, predecessors; nor that every forbearing to execute a law is properly called dispensing with law. If it were, the executive power in most governments is greatly chargeable with the same offence. For our parts, whom the governor is pleased to load with this charge, we did in May last expressly order the trustees to use the utmost of their care and diligence to collect the outstanding quotas, and, to quicken them, drew orders on them nearly for the amount; but as a severe execution of that law would in some cases have been extremely injurious, as this evil had been almost imperceptibly growing, and gradually stole upon the assemblies in a long course of years; and as a sudden sale of all delinquent estates to recover their respective quotas, would have been the ruin of many; and no depreciation of the money or other considerable inconvenience has followed the forbearance, we conceive that former trustees and assemblies, who gained nothing to themselves by this indulgence of the people, though not free from blame, deserve a less severe censure than the governor is disposed to bestow upon them. The charge perhaps amounts to little more than this, that they did not exact from the people the payments that by law they ought to have exacted; which the governor calls dispensing with a law; they are not, however, chargeable with exacting money from the people which by law they had no right to exact, as we apprehend the governor does, in the fees for marriage licences, by which many thousand pounds have been drawn from the inhabitants of this province. If this be not dispensing with law, 'tis making law, and we presume the governor alone has no more right to do the one, than the assembly alone the other. The last of this string of charges, "that we have taken upon us to administer the affirmation to our clerk, and several of our members not quakers" is a total mistake in point of fact. As an assembly we disclaim any right of administering either an affirmation or an oath; and have never administered an oath or affirmation to our clerk, or any member; but whenever an oath or affirmation is administered in the house, it is done by a justice of the peace. And our members are always qualified according to law.

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The governor is pleased to say, 'we have often mentioned what we have done to promote the success of his majesty's arms under general Braddock.' We own that we have often mentioned this, but we have been forced to it by the governor's asserting as often in his messages, contrary to known fact, that we had done nothing, and would do nothing of that kind. But it seems we take to ourselves the services of particular men, in which, the governor says, we had no hand; and adds, 'that had we in time opened the proper roads, raised men, and provided carriages, and necessary provisions for the troops, we might now have been in peaceable possession of fort Duquesne.' We beg leave to ask the governor, has the body no share in what is done by its members? has the house no hand in what is done by its committees? has it no hand in what is done by virtue of its own resolves and orders? did we not, many weeks before the troops arrived, vote five thousand pounds for purchasing fresh victuals, and other necessaries for their use? did we not even borrow money on our own credit to purchase those provisions when the governor had rejected our bill? will the governor deny this, when he himself once charged it upon us as a crime? were not the provisions actually purchased by our committee, the full quantity required by the commissary, and carried by land to Virginia at our expence, even before they were wanted? did the army ever want provisions, till they had abandoned or destroyed them? are there not even now some scores of tons of it lying at fort Cumberland and Conegochieg? did the governor ever mention the opening of roads to us before the eighteenth of March, though the requisition was made to him by the quarter-master-general in January? did we not in a few days after send him up a bill to provide for the expence, which he refused? did not the governor proceed nevertheless to appoint commissioners, and engage labourers for opening the road, whom we afterwards agreed to pay out of the money we happened to have in our power? did the work ever stop a moment through any default of ours? was the road ever intended for the march of the troops to the Ohio? was it not merely to open a communication with this province for the more convenient supplying them with provisions when they should be arrived there? did they wait in the least for this road? had they not as many men as they wanted, and many from this province? were they not more numerous than the enemy they went to oppose, even after the general had left near half his army fifty miles behind him? were not all the carriages they demanded, being one hundred and fifty, engaged, equipt, and sent forward in a few days after the demand, and all at Wills's creek many days before the army was ready to march? with what face then, of probability, can the governor undertake to say, 'that had we in time opened the proper roads, raised men, and provided carriages, and necessary provisions for the troops, we might now have been in peaceable possession of fort Duquesne?'

The governor is pleased to doubt our having such letters as we mentioned; we are therefore, in our own vindication, under a necessity of quoting to him some parts of them; and will shew him the originals whenever he

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shall please to require it. The general's secretary, in his letter of the tenth of May to one of our members (who, in pursuance of a resolve of the house for the service of the army, waited on the general at Frederic, and there occasionally undertook the furnishing of waggons, which he performed with the assistance of some other members of the committee, and for that, and other services to the troops, received the thanks of the house at his return) says, 'you have done us great service in the execution of the business you have kindly undertaken; and indeed without it, I don't see how the service could have been carried on, as the expectations from Maryland have come to nothing.' And again, in his letter of May the fourteenth, 'the general orders me to acquaint you that he is greatly obliged to you, for the great care and readiness with which you have executed the business you undertook for him. At your request he will with pleasure discharge the servants that may have enlisted in the forces under his command, or any others for whom you may desire a discharge; and desires that you would for that purpose send him their names.' And again, in his letter of May the twentieth, 'I have only time to thank you once more, in the name of the general and every body concerned, for the service you have done; which has been conducted throughout with the greatest prudence and most generous spirit for the public service.' The general's own letter, dated the twenty-ninth of May, mentions and acknowledges the provisions 'given by the Pennsylvanian assembly' [though the governor will allow us to have had 'no hand' in it] and says, 'your regard for his majesty's service, and assistance to the present expedition, deserve my sincerest thanks,' &c. colonel Dunbar writes, in his letter of May the thirteenth, concerning the present of refreshments, and carriage horses sent up for the subalterns, 'I am desired by all the gentlemen, whom the committee have been so good as to think of in so genteel a manner, to return them their hearty thanks.' And again, on the twenty-first of May, 'your kind present is now all arrived, and shall be equally divided to-morrow between sir Peter Halket's subalterns and mine, which I apprehend will be agreeable to the committee's intent. This I have made known to the officers of both regiments, who unanimously desire me to return their generous benefactors their most hearty thanks, to which be pleased to add mine, &c.' and sir Peter Halket, in his of the twenty-third of May, says, 'The officers of my regiment are most sensible of the favors conferred on the subalterns by your assembly, who have made so well-timed and so handsome a present. At their request and desire I return their thanks, and to the acknowledgments of the officers, beg leave to add mine, which you, I hope, will do me the favor for the whole to offer to the assembly, and to assure them that we shall on every occasion do them the justice due for so seasonable and well judged an act of 'generosity.' There are more of the same kind, but these may suffice to shew, that we had 'some hand in what was done,' and that we did not, as the governor supposes, deviate from the truth, when, in our just and necessary vindication against his groundless, cruel, and repeated charge, 'that we had refused the proper, necessary

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and timely assistance to an army sent to protect the colonies,' we alleged 'that we had supplied that army plentifully with all they asked of us, and more than all, and had letters from the late general, and other principal officers, acknowleging our care, and thanking us cordially for our services.' If the general ever wrote differently of us to the king's ministers, it must have been while he was under the first impressions given him by the governor to our disadvantage, and before he knew us; and we think with the governor, that if he had lived, he was too honest a man not to have retracted those mistaken accounts of us, and done us ample justice.

The governor concludes with telling us, that 'if our minutes be examined for fifteen years past, in them will be found more frivolous controversies, unparalleled abuses of governors, and more undutifulness to the crown, than in all the rest of his majesty's colonies put together.' The minutes are printed, and in many hands, who may judge on examining them whether any abuses of governors and undutifulness to the crown are to be found in them. Controversies, indeed, there are too many; but as our assemblies are yearly changing, while our proprietaries, during that term, have remained the same, and have probably given their governors the same instructions, we must leave others to guess from what root it is most likely that those controversies should continually spring. As to frivolous controversies, we never had so many of them as since our present governor's administration, and all raised by himself; and we may venture to say, that during one year, scarce yet expired, there have been more 'unparalleled abuses' of this people, and their representatives in assembly, than in all the years put together, since the settlement of the province.

We are now to take our leave of the governor; and indeed, since he hopes no good from us, nor we from him, 'tis time we should be parted. If our constituents disapprove our conduct, a few days will give them an opportunity of changing us by a new election; and could the governor be as soon and as easily changed, Pennsylvania would, we apprehend, deserve much less the character he gives it, of an unfortunate country.

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Extract from the votes of assembly, Sept. 29, 1755.

The Speaker read to the house a paper containing some authorities relating to the rights of the commons of Great Britain over money bills, and in support of the bill passed by this house for granting fifty thousand pounds to the king's use, so far as the said bill relates to the taxing the proprietaries estate within this province: and the speaker being requested by the house to let the same be entered upon the minutes, consented thereto; and it accordingly followed in these words, viz.

THE governor, in his message of the thirteenth of August last, asserts, 'That as our proprietaries (being hereditary governors of this province) have no vote in choosing representatives in the assembly, therefore it is not consistent with the British constitution that their estates here should be liable to pay taxes.' And in answer to the privilege we claim, of having our bills granting supplies passed as they are tendered, without alterations, the governor in his message of the twenty-fourth instant says, that this claim is not warranted by charter; to which the house very justly replied on the twenty-ninth, that the charter gives us all the powers and privileges of an assembly, according to the rights of the free-born subjects of England, and as is usual in any of the king's plantations in America. If the free-born subjects of England do not exercise this right, and it is not usual in any of the king's plantations in America, then we are in the wrong to claim it, and the governor is in the right in denying it.'

The governor in the beginning of his administration has solemnly promised, 'that he would upon all occasions be studious to protect the people committed to his charge in all their civil and religious privileges.' So far then, as these privileges belong to the people and their representatives, from known facts and unexceptionable authorities, so far the governor must have failed of his promise in the protection we have a right to from the duty of his station, and our charters, and the laws of this province.

The practice of the other plantations in America, and particularly very late instances of his majesty's colony of New York, on money bills, are against the governor; but I shall choose to confine myself to the rights of the house of commons, to which we are entitled by our provincial charter, confirmed by a law passed in the fourth year of the late queen Anne, for ascertaining the number of members of assembly, &c. which enacts, in the words of the charter, 'That the representatives chosen and met according to the directions of that act, shall have power to choose a speaker, and other their officers; and shall be judges of the qualifications and elections of their own members, sit upon their own adjournments, appoint committees, prepare bills in order to pass into laws, impeach criminals, and redress grievances; and shall have all other powers and privileges of assembly according to the rights of the free-born subjects of England, and as is usual

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in any of the queen's plantations in America.' The house of commons then do claim by the law and usage of parliament, the right of determining their own elections, and consequently, and necessarily, the right of the electors to vote; and in virtue of this right it appears by the journals of the house of commons, vol. XIII, page 326, that no peer of the realm hath any right to give his vote in the election of any member to serve in parliament. The same was again unanimously resolved in the beginning of the sixth and last parliament of king William III, with an additional resolve, "That for any lord of parliament, or any lord lieutenant of any county to concern themselves in the elections of members to serve for the commons in parliament, the same is a high infringement of the liberties and privileges of the commons of England." The same unanimous resolves appear in the first parliament of queen Anne, and in the beginning of every parliament to the ninth of king George, where our journals end. And it is a standing order of the house of commons, 'That no peer hath a vote in the election of a commoner;" Nevertheless the commons assert, "That the grant of all aids to the king is by the commons, and that the terms, conditions, limitations and qualifications of such grants have been made by the commons only." And upon a particular order to a committee, 30 Car. II, that they should prepare and draw up a state of the right of the commons in granting of money, and how those rights might be asserted: the house of commons, upon that report, resolve, "That all aids and supplies, and aids to his majesty in parliament, are the sole gift of the commons; and all bills for the granting such aids and supplies, ought to begin with the commons; and that it is the undoubted and sole right of the commons, to direct, limit, and appoint in such bills, the ends, purposes, considerations, conditions, limitations, and qualifications of such grants, which ought not to be changed or altered by the house of lords." The house of commons have been always extremely careful of this valuable right, as upon the bill for an additional duty on coffee, &c. 1st of William and Mary; and the bill for the sale of the forfeited estates in Ireland, and indeed upon all occasions upon money bills.

Ch. Com. Deb. Vol. III. Page 311, &c.

Jour. H. Com. Vol. XIII. Page 684.

Id. Vol. XIV. Page 4.

Ch. Com. Deb. Vol III. Page 330.

Jour. H. Com. Vol. IX. Page 420.

Jour. H. Com. Vol. IX. Page 509.

Upon the bill for appointing commissioners to examine and state the public accounts, "the house of commons were fully sensible, and thought the bill so useful at that time, as could not be sufficiently expressed; yet nothing could be of greater importance to the public than the maintaining the just and distinct rights and privileges which each estate of the kingdom enjoyed according to their constitution; that the lords had many high privileges to recommend their lordships to the favor of their prince, and to support their figure in

Ch. Com. Deb. & Jour. H. Com. Vol. XIV. Page 198.

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the government, but the commons had little besides that one of giving money and granting aids, which was their undoubted and inherent right, and therefore every thing that intrenched upon that the commons might be allowed to be extremely jealous of."

As it would be dangerous to proceed in the subject now before us without authorities, I shall add the continuation of Rapin's History of England, by Tindal, vol. III, page 231, and the record relating to the same controversy between the houses of lords and commons, as it lies upon the journals of the commons, in the fourth session of king William's second parliament.

Tindal says, that the lords added a clause to the money bill sent up by the commons, by which they taxed themselves. That clause was disagreed to by the commons, *nemine contradicente*, as an encroachment on their rights in the article of giving money, and sent to the lords to desire a conference thereupon; to whom they represented, "That the commons had disagreed to the clause added by their lordships to the money bill, as being a notorious encroachment upon the rights of the house of commons to order and settle all matters relating to the giving of money, which their ancestors had been so jealous of; that they thought it a diminution of this their fundamental privilege to give their lordships any reason for supporting it; and their lordships, after a long debate, resolved to recede from the said clause by so great a majority, that the house did not divide upon it—and so dropped the clause.

On the journals of the house of commons it appears, "That the lords had agreed to the bill, entitled, 'An act for granting to their majesties an aid of four shillings in the pound, &c. with an amendment. Provided, nevertheless, that all and every the peers that are to be rated by virtue of this act, for their offices or personal estate, shall be rated by Thomas earl of Pembroke, lord privy seal, George marquis of Halifax, William earl of Devon, lord steward of the houshold, Charles earl of Shrewsbury, &c. &c. or any five of them, and not otherwise; and shall not be subjected to the imprisonment of his or their persons, any thing in this act contained to the contrary notwithstanding. Provided also, and it is hereby declared, that the several rates and taxes to which the lords and peers of this realm shall be liable, by virtue of this act, shall be received by a collector to be nominated by the peers; which said collector shall cause the same to be paid into his majesty's receipt of exchequer, on or before the twenty-fifth day of March, 1693." And the question being put, that the house do agree with the lords in the said amendment, it passed in the negative. And, by order of the house, sir Thomas Clarges reported the reasons to be offered at a conference with the lords, "That the right of granting supplies to the crown is in the commons alone as an essential part of their constitution, and the limitation of all such grants, as to the matter, manner, measure, and time, is only in them, which is so well known to be fundamentally settled in them, that to give reasons for it, has been esteemed by our ancestors to be

Vol. X. Page 780.

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a weakening of that right, and the clause sent down by their lordships was a manifest violation thereof;" and an amendment being proposed to leave out "violation," and insert "invasion" instead thereof, the same was, upon the question put thereupon, agreed unto by the house.

Id. ib. Page 784.

And after several conferences Mr. attorney general reported, "that their lordships did not insist upon their provisos." [See editor's note at the end of this article, p. 400.]

From these records and other authorities, as well as known facts, I apprehend it clearly appears, that the lords do not vote in the election of a commoner to serve in parliament, nor intermeddle therein. And that the house of commons have a right in money bills, that they are to be assented to or rejected by the lords without alterations or amendments,

See Bp. Worcester's Case. Jour H. Com. Vol. XIV. Page 37. *et alibi.*

I will now add such other acts and authorities as may further shew, that the king's fee-farm rents, the palaces of St. James's, Whitehall, Somerset-house, &c. and the regalities of Wales and Chester, and even the civil list revenue, are, and have been occasionally subjected to be charged by acts of parliament for the public uses.

It is well known, that before the revolution the whole standing income of the state was in the power and disposal of the crown; and was called the revenue of the crown; there was then no distinction of what was to be allotted to the king's use, and what for the service of the public, by which means the king might reserve what part he thought fit for his own designs, and employ no more than he pleased for the purposes of the nation; accordingly it was found, after the restoration, the public revenue had been constantly embezzled, and immense sums very often sunk without being applied to the uses for which they were granted; it was therefore wisely concerted, after the revolution, for the security of the nation from perpetual misapplications of the public money, to allot a separate income for the maintenance of the king's houshold, and the support of his dignity, which is now called the civil list, and to put the rest of the public revenues entirely under the command of the parliament.

Tind. Cont. Rap.

It was not till the ninth and tenth of William III, that the civil list was settled upon the king for life, though he had earnestly desired it, and had subjected that revenue to be charged to the uses of the war. And on the opening of the third sessions of the third parliament, when they did settle it upon him during his majesty's life, the king tells them, "that the revenues of the crown had been so anticipated by his consent for public uses, that he was wholly destitute of means to support the civil list;" Nevertheless, by an act of the twelfth and thirteenth William III, three thousand seven hundred pounds a week (as the necessityof the public affairs required it) was taken out of that revenue "to be applied and disposed of to and for the public uses during his majesty's life." By an act granting an

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aid to her majesty by a land tax, passed in the first year of the reign of queen Anne, for carrying on the war against France, the receivers of the chief rents of her majesty, and of the queen Dowager, and the receivers of any persons claiming under the crown were enjoined under severe penalties to deduct their taxes of four shillings in the pound out of the said rents, and in like manner the fee-farm rents of the crown, the palaces of St. James's, Whitehall, Windsor-Castle, and Somerset-house, &c. are subjected to the land tax through all the succeeding acts of parliament. By an act of the first of king George, entitled, An act to enable his majesty to grant the regalities of North-Wales, South-Wales, and county of Chester, to his royal highness the prince of Wales, &c. it is enacted, "that it shall and may be lawful for the king's most excellent majesty, by letters patent, &c. to give and grant unto his said royal highness all the said honors, castles, &c. within the counties of Flint, Denby, Montgomery, Carnarvon, &c. and the county Palatine of Chester, and every or any of them, which do not belong to his majesty, his heirs and successors, &c. so nevertheless that the same do not extend to any taxes, aids or revenues whatsoever granted or to be granted to the crown by parliament, to or for any public use or uses whatsoever; to have and to hold the said honors, castles, lordships, manors, messuages, lands, tythes, tenements, rents, hereditaments, possessions, and premises, so to be granted as aforesaid unto him the said prince, and his heirs, kings of Great Britain; subject, nevertheless to such annual and other payments and incumbrances as are legally charged thereupon, or usually satisfied out of the revenues of the same." And upon a computation of the revenues of the late prince of Wales, in the year 1736, when the land tax was at two shillings in the pound, the deductions were five thousand pounds a year for the land tax upon fifty thousand pounds, the six-penny duty to the civil list, and the fees payable at the exchequer, about two thousand pounds more; so that his nett revenue on the fifty thousand pounds a year, allowed him by the king, would not amount to more than forty-three thousand pounds yearly, besides his dutchy of Cornwall. By this estimate we see the royal family, for what they received out of the civil list, were subject to parliamentary taxes, until it was otherwise provided by particular acts; and indeed by the seventh and eighth of William III, chap. 17, sect. 12, it is enacted, "That no letters patents, granted by the king's majesty, or any of his royal predecessors, &c. shall be construed or taken to exempt any person, city, borough, &c. or any of the inhabitants of the same, from the burden and charge of any sum or sums of money granted by the act; and all *non obstantes*, in such letter patent made, or to be made, in bar of any act of parliament for the supply or assistance of his majesty, are declared to be void, and of none effect." If upon these, and many other authorities which might be adduced

Ch. 1, § 23.

Jour. H. Com. Vol. XIV, Page 48.

Com. Deb. Vol. IX. Page 327. Hist. Reg. Vol. XXII, Page 387. *et seq.*

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to the same purpose, it should appear, that the revenues of the crown, and of the royal family, are, and have been, subjected to the national taxes of Great Britain, as well as the estates of all the peers and commoners of our mother-country, from whence we derive ourselves and our constitution, it will be difficult to conceive any good reasons why our proprietaries, and their great estate in this province, should alone, of all his majesty's subjects, be exempted from the payment of taxes for the defence and security of their own estates. But our governor is pleased to inform us, that if we tax them at all, it must be as proprietaries and chief governors, which is the only capacity by which they are connected with, or related to, the inhabitants; that they hold the government and soil under the the same grant, and their title to both is entered in their persons, and cannot be separated, without destroying their authority. Now we certainly have other connections with Thomas Penn, and with Richard Penn, besides their being chief governors: and I suppose they may separately eject or commence actions at law for rent, or other actions, in his majesty's courts within this province, in their private capacity, in the same manner that other inhabitants and freeholders could do in like cases; and the powers of government might have descended through the eldest branches of the family, or either of our proprietaries, without injuring their property in the soil; and in this case, the governor would have been sufficiently authorised by commission under him, in whom the powers of government were vested. But the commission of property (which our governors have not been concerned with till very lately) would have been insufficient, unless executed by all who had a property in the lands, and is now executed by the governor by virtue of that commission in opposition to his commission as lieutenant-governor, which expressly enjoins him not to grant lands, or otherwise interfere with the proprietaries affairs of property.

But to return, as it is evident that the peers of Great Britain do not vote in the election of members to serve in parliament, yet their estates are taxed by bills of aids, and supplies to the crown, which arise out of the house of commons; I am of opinion, that the conclusion the governor draws from his reasoning in the message of the thirteenth of August last, is in direct opposition to the rights and usage of the house of commons; and consequently our offering a bill, whereby the proprietary estate was to be taxed with all other estates within this province, was not against the very principles of the British constitution, as he would imagine.

To which it may be answered,

Have the proprietaries, says the governor, a right to vote in the election of representatives as landholders? surely not. Being hereditary governors of the province, and having a vote in the legislature by their own particular representative the governor. How then came you by a

Have the peers of Great Britain a right to vote in the election of representatives as landholders? surely not. Being hereditary peers of Great Britain, and having a vote in the legislature by their own particular representation in the house of lords. How then came the house of commons by

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right to tax them as fellow-subjects and landholders, seeing they had no voice in choosing you, nor were entitled to any, though owners of land in every county?

a right to tax the peers as fellow-subjects and landholders, seeing they had no voice in choosing them, nor were entitled to any, though owners o land in every county?

From the very principles therefore (says the governor) of the British constitution, you have no right to tax them as freeholders, or fellow-subjects, But all this kind of reasoning serves only to ease us from the whole force of it, and leaves the governor to dispute the principles of the British constitution with a British house of commons, before whom he will undoubtedly think it his duty to produce stronger arguments than these. The fallacy of this manner of reasoning is very obvious.

The knights, citizens and burgesses, represent the whole commons of England; but the peers are present in parliament for themselves only; as it would be unjust to tax the peers if they had no representation in the legislature, by which they might give their consent; so it would be equally unjust to tax the proprietary estate here, without his assent by his representative the governor.

The peers and our proprietaries have their negatives upon all bills; but the equity of taxing themselves, as well as all others, for their common safety and defence, induces the lords to give their assent to bills offered to them for that purpose; and do doubt the same equity ought to be equally binding on our proprietaries; and it may be hoped, that all restrictions, by which their deputy is disabled from discharging his duty, will, in due time, be considered by our superiors. Our proprietaries, I presume, have no right to vote for our representatives, though they are certainly landholders in this province; and under this consideration they are exempted from paying assemblymen's wages by our country rate and levy act. The peers of Great-Britain are as certainly landholders; and many of them burgesses and members of corporations; yet they neither vote for the knights of the shire or burgesses; and under the same consideration are exempted from contributing to their expences. The commons petitioned in parliament, first of Richard II, that all persons having lay fee might contribute to the charge of the knights. The king answered, that the lords of the realm would not lose their old liberties: yet in the same reign, by the twelfth of Richard II, chap. 2, it is enacted, that if any lord, or any other man, spiritual or temporal, hath purchased any lands or tenements, or other possessions, that were wont to be contributory to such expences before the time of the said purchase, that the said lands, tenements and possessions, and the tenants of the same, be contributory to the said expences, as the said lands, tenements and possessions, were wont to be before the time of the same purchase. This law, which hath continued through so many ages, appears to be founded in justice and equity, and will necessarily become the rule of our conduct; for as our paper money acts are near expir-

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ing, and it may be hoped that no future assembly will give up their just rights for the obtaining of new emissions, whatever inconveniencies they may labour under for want of them, the payment of assemblymen's wages must become very burdensome if they are to be kept sitting, though to little or no purpose (as of late) through a great part of the year; and especially if our proprietaries, against our expectations, should have as much power as they have inclination to get their encreasing estates exempted from bearing any share of our taxes; for in this case we have reason to apprehend they may judge it their private interest to impoverish the people by exorbitant impositions, or a profusion of the public money; and as under these circumstances pretences will never be wanting, new and grievous burdens will be repeatedly called for, till by degrees the freeholds and possessions of this young colony must insensibly fall into the proprietaries hands; and thus by the continual proprietary exemptions, and the weight becoming still heavier upon the decreasing number who may be able, for a while, to bear up, and continue among the calamities of their country; these too must at length submit and leave the colony their predecessors had cultivated and settled with honor under a milder administration.

See Viner's Abridgment, Tit. Parl. Let. G. Page 196. Id. Tit. Peer. Page 289.

Note.—The editor takes the liberty of adding in this note the following authorities.

The commons in 1700 having tacked or consolidated the land-tax and Irish-forfeiture bills, and the lords having returned the same with certain amendments, the commons rejected the said amendments for the following reasons, viz. "for that all aids and supplies granted to his majesty in parliament, are the sole and entire gift of the commons; and as all bills for the granting such aids and supplies begin with the commons, so it is the undoubted and sole right of the commons to direct, limit and appoint, in such bills, the ends and purposes, considerations, limitations, and qualifications of such grants; which ought not to be changed or altered by your lordships. This is well known to be such a fundamental right of the commons, that to give reasons for it has been esteemed by our ancestors to be a weakening of that right," &c. and though the lords at a farther conference strenuously contended for their said amendments, in opposition to these reasons; the commons adhered, and left the bill with their lordships, to adopt in the gross, or reject as they thought fit. After which the reader need not be told what was the issue.

Extract from the report of a free conference between the two houses, Feb. 13, 1702-3.

"That the ancient manner of giving aids was by indenture, to which conditions were sometimes annexed; the lords only gave their consent, with-

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out making any alteration; and this was the continued practice, until the latter end of Henry the fifth, and, in some instances, until Henry the seventh. That in the famous record, called the indemnity of the lords and commons settled by the king, lords, and commons, on a most solemn debate in 9 Henry IV, it is declared, that all grants and aids are made by the commons, and only assented to by the lords. That the modern practice is, to omit the lords out of the granting, and name them parties only to the enacting clause of aids granted to the crown; to which their lordships have always concurred, and on conferences departed from their attempts of petty alterations in acts relating thereunto. That if then all aids be by the grant of the commons, it follows that the limitation, disposition, and manner of account, must likewise belong only to them."

Report of a committee of the assembly, September 23.

In obedience to the order of the house, we have considered the proprietaries eleventh, twelfth, and twenty-first instructions, relating to money bills, and now offer such remarks thereon as occur to us.

THE preamble to the eleventh instruction sets forth, 'That the interest money arising from the loan of bills of credit in this province, was intended by the proprietaries, and the house of representatives, to be applied for the public service of the province, and of the inhabitants thereof, and should therefore, under the direction of the same power that raises it, be most carefully applied to those purposes, as a greater security to the people against misapplications, than if it was entrusted only to one branch of the legislature; and such was the ancient practice in their said province.' That the interest money was intended to be applied for the public service of the province, and of the inhabitants thereof, is undoubtedly right; but that it was ever the 'practice,' or that there was ever even a single instance of the proprietaries or their deputies having a vote in the application of the interest money, we must absolutely deny. Their consent to the disposition is not required in any of our loan acts from the beginning to this day, the constant tenor of those laws being, that the 'interest money shall be disposed of as the assembly of this province shall from time to time order and direct.' Their consent was never asked, unless in the acceptance of presents made them out of that interest, which could not be forced on them without their consent; and that kind of application they have indeed been graciously pleased to consent to from time to time, to the amount of above thirty thousand pounds given to themselves out of that fund and the excise. If this was a misapplication, and we know of no other, the power they contend for would not have prevented it; for it is scarce probable they should ever disapprove or refuse to sign acts, votes, or resolves, which they thought so just and reasonable.

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And indeed, had these presents been always as regular as the seasons, and never intermitted, be the conduct of the governor ever so inconsistent with the public good, your committee have reason to believe, this new instruction had never been formed or thought of. But since the representatives of the people have dared to signify their disapprobation of a governor's measures, by withholding those tokens of their esteem, affection, and gratitude, which were constantly given when they found themselves well governed; this instruction is thought necessary to be enforced. Not for the greater security of the people against misapplication; for they never complained of any; but to compel your continuance of those presents; to compel an addition to them, for they are thought too small; and to compel the payment of what they are pleased to call the arrears of such presents to any governors from whom they have at any time been withheld. For if the people's money cannot be disposed of for their own benefit, without the proprietary or his deputy's consent, the passage of the bill, or the approbation of the resolve, must be facilitated, as the proprietaries were pleased to tell us on a former occasion, by a regard to their interest, that is, by putting at the same time into their private pockets whatever share of the public money they shall be pleased to insist on, under the specious name of salary or support; though by the quit-rents, and even by their other fees and perquisites, established by law or taken by custom, they have already a support much more than sufficient.

The money arising by the interest of the bills of credit, as well as that arising by the excise, is paid wholly by the people. To dispose of their own money, by themselves or their representatives, is, in our opinion, a natural right, inherent in every man, or body of men, antecedent to all laws. The proprietaries pay no part of this money, and therefore can have no right to a share in the power of disposing of it. They might as reasonably claim a right to a negative in the disposition of every man's private fortune, and for the same reasons, to wit, the man's greater security, and to prevent misapplication; nay, the reasons would be stronger, bodies of men not being generally so apt to misapply their money, as single prodigals. The people have never complained that any such misapplication has been made by their representatives; on the contrary, they have shewn their approbation of the conduct of the assembly in this tender point, by long repeated annual elections of the same men to the same trust in the same office. They have always seen their money disposed of, from time to time, for the advantage and honor of the public, or for the king's immediate service, and they had reason to be contented with the disposition. The public credit has been constantly preserved, and every man who served the government, has been always duly and readily paid; but if this new-claimed negative in the proprietaries takes place, the people will not have it in their power to reward the man that serves them, or even to pay the hire of the labourer that works for them, without the governor's leave first purchased; much less will they be allowed to support an agent in England to defend their rights, or be able to pay the expence of prosecuting their complaints

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when oppressed. And to prevent their doing this, is, we conceive, another main view of this instruction.

In short, it does not appear to your committee that this extraordinary instance of the proprietary's care of the people's money, to prevent its being wasted by their own representatives, was for the people at all necessary. Those representatives themselves are a part of the people, and must bear a share of their burdens. For their own sakes, therefore, as well as to recommend themselves to the esteem and regard of their constituents, it is highly probable they will execute that trust, as they always have done, with justice, prudence, and frugality; with freedom to the king's service, and grateful generosity to governors that sincerely seek their welfare, and do not join with the proprietaries to oppress them. But this instruction might perhaps be necessary to extort those grants to governors which they had been pleased to style salary, and render that certain, which before depended on the good will of the people; for how else can the proprietaries be sure of that share of those grants, which, by their private contracts sometimes made with their governors, is (if report says true) to be paid to themselves?

The proprietaries are however willing to permit the renewal of the eighty thousand pounds, which is now to sink in a few years, and even the adding forty thousand pounds more, the whole to be emitted on loan, provided, that the eleventh instruction be complied with, 'and half the power of applying the interest reserved to them; and provided, that all rents and quit-rents due, or to be due or payable to them, be always paid according to the rate of exchange at the times of payment between Philadelphia and London, or some other sufficient provision enacted in lieu thereof, as was done by a former act.' Your committee cannot help observing here, that the proprietaries tenderness for their own interest appears in this instruction much stronger than their care for that of the people. Very great emoluments arise to them by emissions of paper money on loan, and the interest money is a tax they are clear of. They are therefore willing the quantity should be encreased; but whatever advantages they receive from it, they are resolved to suffer no disadvantage from any occasional depreciation; for they will always be paid their rents and quit-rents, according to the rate of exchange between Philadelphia and London. By the original agreements, those rents and quit-rents were to be paid in sterling money (or the value in coin current) to the proprietary receivers in the province. A bill of exchange besides the sterling sum conveyed, includes all the freight, risk and expence of conveying that sum in specie to London. Now we conceive the people are not, nor can in justice or reason be, obliged to transmit their rents to London, and pay them there to the proprietaries. If the proprietaries should think fit to remove to China, they might as justly add to their demand the rate of exchange between London and Canton; this therefore is extortion, and ought never to be allowed in any future act, nor any equivalent made for it. For had that equivalent been really given as a matter of justice, and not extorted as purchase money for the law, it would have been extended to the rents of private landlords; as well as those of

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the proprietaries. Besides, the great sums to be yearly remitted to them in London, for which no returns come back to the country, naturally tend to raise the exchange; and even put it in the power of their agents to raise it occasionally, just before the periodical times of payment (to the great injury of the people) and to lower it again at their pleasure; a dangerous power this, if no inconvenience can arise to themselves by the rise of exchange! the depreciation of money in every country where it happens, is a common calamity. The proprietary estate ought not to be exempt from it, at the expence of all other estates. There are many fixed ground rents, and other rents arising in the province belonging to the people, and due to private estates. These rents have as much right to be considered, and their deficiency, in case of depreciation, provided for out of the public funds, as those of the proprietaries. But of these they take no care, so their own are secured. It appears however to your committee, that all rents in the country ought to be on the same footing, with regard to any loss by the depreciation of its currency, since that is less likely ever to happen which it is the interest of all to prevent.

Your committee now come to the twenty-first instruction, by the preamble of which it is insinuated, as if acts for provincial taxes had been common in this province, and that the proprietary's estate had been always exempted in such acts; whereas the truth is that there never were but two or three, and those in the early times of the province, when the proprietary's circumstances were low, his affairs encumbered, and the quit-rents so small, as to be insufficient for his support, and therefore they were not only exempted from any part of such tax, but duties and licence fees were granted to help them out. For more than forty years, as the excise and interest money have been sufficient for support of government, no provincial taxes have been levied (in this very instruction, a little lower, they themselves acknowlege none have been raised in their time) and the proprietary estate has vastly encreased; those licence fees are also vastly increased, and yet they still received them But that their estate should now be exempt from provincial taxes, raised for the defence of that very estate, appears to us extremely unreasonable. During the distress of the family, there was likewise a voluntary subscription among the people to pay the proprietary's passage to England; they may from thence as justly claim a right of having their expences borne by the public whenever they cross the seas. But when those aids were granted to the old proprietary, he had a much better claim to them than his sons; for he undertook to act as an agent and advocate for his people, in England; to defend and secure their rights and privileges; not like his successors, to abolish and destroy them.*

* This he executed in several instances, and particularly in his answer to the lords of trade's objections to the act of privileges to a freeman, in the year 1705; in which he informed their lordships, that the act was agreeable to the great charter which all Englishmen were entitled to, and that 'we went not so far (i. e. from England to America) to 'lose a tittle of it.'

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The instruction farther says, that 'since the expiration of those former laws, no aid hath ever been granted by the assembly to them as proprietaries. As proprietaries, what right, have they to aids? are they not hereditary governors of the province? and while they have indulged themselves with an almost constant residence in England, remote from their country, and greatly to its inconvenience and prejudice, have not the assemblies constantly supported their deputy, sent by the proprietaries to do what they ought themselves to have done in person; though he was often an imperfect deputy, restrained in those powers which should always subsist and be present in every government for the common welfare? but they are pleased to say, 'they have voluntarily and cheerfully expended several considerable sums of their own money for the advancement of the province." This they said likewise to a former assembly, and the answer was, 'We are unacquainted with these expences; let the accounts be laid before us, and whatever expence appears to have been made for the service of the province shall be allowed, and repaid with thanks.' Those accounts have never yet appeared; and till they do, we think they ought not to be made the foundation of any claim whatever.

They say farther, 'that they had no reason to suspect that the assembly would deviate so much from the former usage, as to pretend, by any act of theirs, to charge the proprietary estate in the province with the burden of any taxes' Amazing! if the assembly deviated from the former usage, by taxing their own estates, and those of their constituents (their usual funds failing) why should they not deviate in the same manner in taxing the proprietary estate? and what are the particular merits of this family, that when the whole British nation, when every estate in the kingdom, as well as in this province, is taxed, towards the recovery and defence of their estate in Pennsylvania, that very estate alone should be exempted, and they so confident of its right to an exemption, as to have no reason to suspect the assembly would attempt to tax it?

But it seems 'the assembly have represented them in an untrue light, as if unwilling to assist the public, by contributing towards the defence of the country, though no application had ever once been made to them for that purpose.' How far they are placed in an untrue light on this account, will, we presume, appear before we finish this report. It appears too, by a report of a former committee. They likewise say, 'no application was ever once made to them for their assistance towards the defence of the country.' Heretofore it was thought that the country was best defended by maintaining peace and a good understanding with the Indians. This was done from year to year by expensive and repeated presents. The proprietary reaped great advantages from this good understanding and these presents, in his bargains with the Indians for lands. The expences grew yearly more and more heavy, and repeated humble applications were made to the proprietaries, that they would be pleased to bear a part, but without success. They vouchsafe indeed an answer to the last application, but it was to reject it with the utmost pride and scorn, claiming an inherent right of ex-

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emption of their estate from all public charges whatsoever, in virtue of their being governors as well as proprietaries. And the sixty thousand pounds bill is called an attempt of the assembly by 'an act of theirs,' to charge the proprietary estate, as if they had presumed to do it alone by their own authority. The assembly could not possibly think of taxing the proprietary estate, without the consent of the proprietaries by their deputy; the bill was therefore another humble application to the proprietaries for their consent to a thing so reasonable; and the very style of it was, 'we pray that it may be enacted.' But that prayer could not be granted, though the province was on the brink of ruin. And yet it seems the proprietaries were not 'unwilling;' though their deputy declared they had expressly restrained him even by the words of his commission! the bill however is stigmatized with the characters of 'most unjust and extraordinary.' Thus it is, when men judge in their own cases. These gentlemen think it unjust to tax their estates, though all the world thinks otherwise. As provincial taxes had not been usual, it might be so far extraordinary, but the mode of taxation was by no means extraordinary, being the same with that of raising our county rates and levies, long used and approved by the province. And the taxing of proprietary lands is used both in New Jersey and Maryland; and located unimproved lands have formerly been taxed in this province. Had such been taxed every where from the first settlement of America, we conceive it would have tended to the increase of the inhabitants, and the greater strength of the colonies; for then such immense quantities of land would not have been monopolized and lain dormant, but people would more easily have obtained settlements, and been seated closer together.

But the proprietaries would have it understood, that it is not for their own sake only, that they object to the fifty thousand pounds bill which was refused, or the sixty thousand pounds act that passed. They are tenderly concerned for the estates of others. No part of the lands of a delinquent, who refuses or neglects to pay his tax, ought in their opinion, to be sold for payment; though lands in America are by act of parliament made liable to be sold for discharge of debts, and were almost always so here by the laws of this province. If lands, or parts of land may be sold to satisfy private, why not public debts? and though it be unusual in England, it has long been the practice, as we are informed, in several of the colonies, particularly in New England. But they say, 'a tax of one shilling in the pound, on the whole value, is what never was laid, nor can possibly be paid, in any country.' Strange! may not a country in imminent danger give a twentieth part of their estates to save the other nineteen? is it impossible even to give a half, or three-fourths, to save the other half or quarter? may they not even give nineteen parts to save the twentieth? the proprietary's gift of five thousand pounds, they afterwards say, is twenty times more than their tax, if fairly and equally assessed, could by that bill have amounted to. If so, it is possible to give the whole twenty parts; but it has always been understood, that estates are not to be taxed to the full value

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they might singly sell for. In the same bill it was provided, that located unimproved lands should not be valued in the rates at more than fifteen pounds per hundred acres; when it is well known, that the proprietary's lowest price for wild lands on the frontiers is fifteen pounds ten shillings per hundred; and that the located unimproved lands in their manors, are, some of them, valued at three or four hundred pounds per hundred; they may therefore well say, that 'if that tax had been fully assessed, it must have amounted to many times the sum;' but then their next assertion is somewhat inconsistent, viz. that the bill laying this tax was 'most unjustly calculated for the purpose of putting it in the power of the assessors to tax the proprietary estates up to the full value, and to ease other persons, by taxing them so lightly as only to make up the residue of the fifty thousand pounds, in which case, much the greatest part of the burden might have been laid on the proprietary estates alone.' The value of the proprietary estate has long, for prudential reasons, been kept a profound secret; and the proprietaries have lately given five thousand pounds rather than submit it to the enquiry of the assessors. But your committee conceive some light may be obtained on that head, from this part of the instruction compared with the fifty thousand pounds bill. By that bill their wild unsurveyed, or unlocated lands, which are many millions of acres, were not to be taxed at all, though they never sell any of them for less than fifteen pounds ten shillings, per hundred acres. Their taxable estate consists chiefly in located (though uncultivated) tracts and manors, and in the reserved quit-rents arising from the lands they have sold. These manors and tracts are generally choice, being of the best lands, picked out of every new purchase from the Indians by their surveyors, before the office is opened, and laid by for a market, not to be disposed of till all the surrounding lands are sold and settled. This has increased their value prodigiously, so that they are now, one with another, valued at more than three hundred pounds per hundred; yet by the bill, they were not to be taxed as worth more than fifteen pounds per hundred. And they own, that by the same bill, 'their quit-rents were to be taxed in the same manner as other estates,' consequently as great an abatement to be made in the valuation. And yet by this same bill, under this very moderate valuation of their estate, they say, it would have been in the power of the assessors to have laid much the greatest part of the burden on their estates alone. Now, much the greatest part of fifty thousand pounds may be forty thousand pounds, but we will say (for moderation's sake) it is only thirty thousand pounds, and that sum might have been raised by that bill, on the proprietary estates, in two years by a tax of one shilling in the pound, i. e. fifteen thousand pounds per annum. The shillings in fifteen thousand pounds are three hundred thousand, consequently their estates at that low valuation are worth three hundred thousand pounds. But if you multiply that valuation by 20, to bring it nearer the truth, those estates must amount to six millions, exclusive of their wild lands as aforesaid. If this computation be too high, they may be able hereafter to shew its mistakes. At present we conceive the consequences

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fairly drawn from facts and their own premises. And yet this their enormous estate is, by their instructions, to be exempted, while all their fellow-subjects groan under the weight of taxes for its defence! it being the first attacked in the present war, and part of it on the Ohio, the prize contended for by the enemy For though they, towards the end of this instruction, pretend to be 'most ready and willing to bear a just proportion along with their tenants in any necessary tax for the defence of the province,' yet this appears clearly to be a mere pretence, since they absolutely except their quit-rents, and their located unimproved lands, their fines, and the purchase-monies they have at interest; that is, in a manner, their whole estate, as your committee know of little they have left to be taxed, but a ferry-house or two, a kitchen, and a dog-kennel.

But unimproved lands should not, in our proprietaries opinion, pay any taxes, because 'they yield no annual profit.' This may deceive people in England (where the value of land is much at a stay) as they are unacquainted with the nature of landed estates in growing plantations. Here new lands, without cultivation, without fencing, or so much as cutting down a tree, being reserved and laid by for a market till the surrounding lands are settled, improve much more in yearly value even than money at interest upon interest. Thirty years ago, the best and richest lands near the proprietary's Conestogoe manor, were worth and sold for about forty pounds per hundred acres. That manor was then laid out and reserved, containing near seventeen thousand acres; and now the lands of that very manor, which, though so long located, have never yet been cultivated, will sell for three hundred and fifty pounds per hundred acres; which is near nine for one, or eight hundred per cent. advance! can an estate thus producing twenty-five per cent. per annum on the prime cost, be, with any propriety, called 'an estate yielding no annual profit!' is it not a well known practice in the colonies, to lay out great sums of ready money for lands, without the least intent of cultivation, but merely to sell them again hereafter? would people follow this practice if they could not make more profit of their money in that way than by employing it in improvement of land, in trade, or in putting it to interest, though interest in the plantations is from six to ten per centum. Does not such land, though otherwise unimproved, improve continually in its value? how mean and unjust is it then, in these gentlemen, to attempt to conceal the advantages of this kind of estate, and screen it from taxes, by lurking under the ambiguous and deceitful terms, of unimproved lands, and lands yielding no annual profit!

Meanly unjust indeed, in this instance, do they appear to your committee; who cannot but observe, that the proprietaries, knowing their own inclinations to screen their own estates, and load those of the people, from thence suspected the people might be equally unjust, and intend, by the fifty thousand pounds bill, to ease their estates and load those of the proprietaries. 'The bill, say they, appears to us to be most unjustly calculated, for the purpose of putting it in the power of persons, wholly chosen

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by the people, to tax our estates up to the full value therein mentioned, and to ease other persons by taxing them so lightly, as only to make up the residue that might be wanted to complete the fifty thousand pounds. In which case the persons chosen by the people might have laid by much the greatest part of the burden upon our estates alone.' Had they intended to raise much the greatest part of the tax of fifty thousand pounds on the proprietaries estate would the house so readily have accepted of five thousand pounds in lieu of their share of that tax? but why this suspicion of the assembly? What instance of injustice can the proprietaries charge them with, that could give ground for such a supposition? if they were capable of such an intention, and an endeavour to get iniquity established by a law, must they not be the most unjust and dishonest of men? the assessors, it is true, are chosen by the people; they always were so by our laws; and let a man's estate be ever so great, he has but one vote in the choice of them; but have the proprietaries no friends in their province? what is become of all their dependants and expectants; those in place, or hoping for places; the thousands in their debt; the mortgagors at their mercy? will none of these, out of love, or hope, or fear, vote for honest assessors, that may take care the proprietary is not oppressed by the weight of an unjust tax? could the assembly be certain, that the whole people were so wicked, as to join in choosing and trusting sets of dishonest assessors, merely to wrong the proprietary? are there no laws in the province against perjury; are not the assessors by law to be sworn or affirmed to assess themselves and all others impartially; and have they not always been chosen as men of note for probity and justice? what a dark prospect must a man's own heart afford him, when he can from thence form such ideas of the hearts of a whole people! a people famous throughout the world, for the justice and equity of their laws, the purity of their manners, their humanity and hospitality to strangers, their affection to their late honored proprietary, their faithfulness in their manufactures and produce, and uprightness in all their dealings! and to whose virtue and industry these very gentlemen owe all their present greatness!

The proprietaries are pleased farther to say, 'that the laying taxes on the real value of the fee-simple, and the sale of land for the payment of taxes, are contrary to the laws and statutes of Great Britain.' Your committee cannot find that any laws or statutes were ever made in Great Britain to regulate the mode of laying taxes in the plantations; and if there are none such, our bill could not be contrary to what never existed. In Virginia the taxes are laid on slaves, and paid in tobacco; and every colony has its own mode of taxation, suited to its own circumstances, almost all different from each other as well as from that used in England. But different from, and contrary to, we conceive to be distinct and different things; otherwise many of our laws, even those which have been approved at home, and received the royal assent, are contrary to the laws of England. But as we said before, the laws of England themselves, make lands liable to pay debts in the colonies; and therefore to sell them, or a part of them, to pay public debts, is not contrary to, but conformable with, the laws of England.

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But the proprietaries 'cannot find that the quit-rents reserved to the crown, in any of the other American colonies, have ever been taxed towards the raising any supplies granted in those colonies; and indeed those quit-rents are generally so small (meaning the king's quit-rents, we suppose, for their own surely are large enough) that little or no land tax, would be due or payable on them, if arising in Great Britain, &c.' If your committee are rightly informed, the king's quit-rents in the other colonies, are applied to public purposes, generally for the service of the colony that raises them. When our proprietaries shall think fit to apply those arising here in the same manner, we believe no assembly will attempt to tax them. The smallness of the parts, we cannot conceive to be a good reason for not taxing the whole. Where every man worth less than twenty shillings a year is exempt from taxes, he who enjoys a thousand a year might, as well as our proprietaries, plead to be excused, for that his income is only twenty thousand shillings, each of which shillings is far within the sum exempted by law. In the whole, though what arises from each estate be no great sum, their quit-rents must amount to a very great revenue; and their speaking of them in the diminutive terms of very small quit-rents or acknowlegments, is only to amuse and deceive. They are property; and property should pay for its own preservation. They ought therefore to be taxed to the defence of the country. The proprietaries indeed say, a land tax was unnecessary, as there are many other ways of raising money. They would doubtless choose any way in which their estate could not be included. But what are those many other ways? Britain, an independent state, can lay infinite duties, on all foreign wares, and imported luxuries. We are suffered little foreign trade, and almost all our superfluities are sent us from Britain itself. Will she permit us to discourage their importation by heavy imposts? or to raise funds by taxing her manufactures? a variety of excises and duties serve only to multiply offices and officers, and to make a part of the people pay for another part who do not choose to pay. No excise or duty, was ever a fair and unequal tax on property. The fairest, as the proprietaries themselves have acknowleged, is a poundage on all real and personal estate, according to its value.

We are now to hear of the generosity of the proprietaries, who, as they say, 'were so far from desiring not to contribute to the defence and support of his majesty's rights and dominions, that immediately on the first notice of the defeat of general Braddock, they had sent over an order upon their receiver general, to pay five thousand pounds as a free gift towards the defence of the said province.' We may presume to ask, why, when they knew the assemblies were continually worried to give money, and the bills in which it was offered as constantly rejected; why did they not unmanacle their governor, and at the same time set an example of zeal for the common cause by a generous gift on their part, before they heard of that defeat? why not as soon as they knew he was sent to America? why not on Washington's defeat, or before his first expedition, as soon as ever their province was

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attacked, and they learnt that the enemy had built a fort in it? but the truth is, the order was sent, not immediately on the news of Braddock's defeat; the date of the order will show that it was a month after that news arrived in England. But it was immediately after they had advice, that the governor had refused a grant of fifty thousand pounds to the crown for the defence of the proprietaries province, because their estate was taxed in the bill, alleging restrictions from them on that head; against which all the world exclaimed, and an universal odium was falling on their heads, and the king's wrath justly dreaded; then it was, that the boasted order issued. And yet, as soon as their fears subsided, it was sincerely repented, and every underhand step taken to get the act, in which their gift was fixed, disapproved at home; though if they had succeeded, when the bills emitted were abroad, and in the hands of the public, many of the poor soldiers, who had received them in pay for their services, would have been ruined, and multitudes of others greatly injured. And after all, this free gift, to be immediately paid, is not yet paid, though more than a year is elapsed since the order was given; and contracts, entered into by the commissioners in confidence of receiving that money, are yet unsatisfied, to the loss and disappointment of many, and great detriment to the service.

However, if we will have a land tax, they are pleased to form a bill for us, or at least to direct what clauses shall be in, and what shall not be in it, thus violating the most essential right of the commons in a British constitution! and with this particular injunction, that the tax shall be laid for no more than one year; and shall not exceed four shillings in the pound on the income; which, estimating estates at twenty years purchase, is about a fifth of a twentieth, or, in plainer words, a hundredth part of the value. Perhaps this may be well enough in times of tranquillity; but when a province is invaded, must it be given up to the enemy, if a tax of the hundredth penny is not sufficient to save it? Yes, that is our present situation; for the proprietaries instructions are, it seems, unalterable. Their governor is bound to observe and inforce them, and must see the king's province perish before his eyes, rather than deviate from them a single tittle. This we have experienced within a few days, when advantage being cruelly taken of our present unhappy situation, the prostrate condition of our bleeding country, the knife of the savages at her throat, our soldiers ready to mutiny for want of pay and necessaries, our people flying in despair from the frontier for want of protection, the assembly was compelled (like Solomon's true mother) to wave her right, to alter our money bills, abridge our free grant to the crown by one half, and, in short, to receive and enact a law not agreeable to our judgments, but such as was made for us by the proprietary instructions, and the will and pleasure of the governor's council; whereby our constitution and the liberties of our country are wounded in the most essential part, and even violated and destroyed. We have reason to confide, however, in the justice of our sovereign and a British parliament, that this tyranny shall not long subsist; and we hope no time will be lost in making the proper application.

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In fine, we must say, in justice to the house, that the proprietary's charge against the assembly, as 'being inclined by their authority to tax the proprietary estate 'disproportionately, &c.' is, to our knowlege, groundless and unjust. They had as little inclination as authority to wrong him. They have not, it seems, authority enough to oblige him to do justice. As to their inclination, they bear, every one of them, and maintain, the character of honest men. When the proprietaries shall be truly willing to bear an equitable part of the public burden; when they shall renounce their exorbitant demand of rent as the exchange shall then be; make restitution of the money which they have exacted from the assemblies of this province, and sincerely repent of their extortion, they may then, and not till then, have some claim to the same noble title.

The proprietaries have for a long series of years made a great secret of the value of their estate and revenue. By accident the following authentic paper is fallen into our hands, and will serve as a ground-work on which the reader may be enabled to form some idea of the value of that estate in Pennsylvania. It is a copy of an original paper drawn by Mr. Thomas Penn himself many years ago, and endorsed

"My estimate of the province, T. Penn."

ESTIMATE.

	Pennsylva. Curr.
1. LANDS granted since my arrival are very near 270,000 acres, of which not 10,000 have been paid for; more than of old grants are remaining unpaid; is	£.41,650 0 0
2. The rent on the said grants is 550*l.* sterling a year, which at 20 years purchase, and 165 per cent. exchange, is	18,150 0 0
3. The old rent, 420*l.* a year sterling, at ditto, is . . .	15,246 0 0
4. Lands granted between roll and the first article are 570*l.* a year sterling, which at 20 years purchase, and 165 per cent. is	18,810 0 0
5. To the difference between 420*l.* and 570*l.* for arrearages of rents which may be computed at half the time of the other arrearages, that is 11 years at 165 per cent.	2722 10 0
6. Ferries let on short leases, the rents being 40*l.* a year, are worth	1000 0 0
Carried over	£.97,778 10 0

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				Pennsylva. Curr.
			Brought over	£.97,778 10 0
7. Lands settled in the province, for which no grants are yet passed, except a few since the above account was taken, not less than 400,000 acres, which at 15*l.* 10*s.* amounts to				63,000 0 0
The rent at an halfpenny an acre is 833*l.* 6*s.* 8*d.* a year sterling, reckoned as above is				27,500 0 0
				£.188,278 10 0

MANORS.

1 Conestogoe,	65 M. from the city,	13,400 acres, at 40*l.* per H.		5360 0 0
2 Gilbert's,	25	3200	70	2240 0 0
3 Springfield,	12	1600	75	1200 0 0
4 Highlands,	35	2500	30	750 0 0
5 Spring-town,	37	10,000	35	3500 0 0
6 Vincent's,	40	20,000	35	7000 0 0
7 Richland's,	35	10,000	15	1500 0 0
9 About 20 tracts in the several counties, mostly 500 acres each; reckoned 10,000 at 40*l.*				4000 0 0
Springet's-bury,		207	5	1035 0 0
8 On the north side of the town,		50	30	1500 0 0
8 Back of the said land		15	10	150 0 0
9 Lot in the bank at the north end of the town 200 feet at 3*l.*				600 0 0
10 A front and bank lot between Vine and Sassafras street, 102 feet at 6*l.*				612 0 0
11 Bank lot between Cedar and Pine street, 204 feet at 3*l.*				612 0 0
12 Front lot on the side of Cedar,		102	3	306 0 0
13 Ditto between Cedar and Pine street		160	2	320 0 0
14 Bank lot between the same streets		40	2	80 0 0
15 Marsh land near the town		600 acres	3	1800 0 0
16 Ditto 200 acres at 1*s.* sterling rent, and 165. per cent. is				330 0 0
Lands within the draft of the town, at least 500 acres, 260 nearest Delaware, at 15*l.* per acre				3750 0 0
250 nearest Schuylkill, at 10*l.* per acre				2500 0 0
17 Omitted.——Streiper's tract in Bucks county, 35 miles, 5000 acres, at 25*l.*				1250 0 0
18 The rents of the above manors and lands being 77,072 acres, at a halfpenny per acre. 20 years purchase, and 165 per cent. exchange, is				5398 12 0
				£.233,972 2 0
The government to be calculated at no less than was to have been paid for it, viz. 11,000*l.* at 165 per cent. is				18,150 0 0
			Carried over	£.252,122 2 0

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Pennsylva. Curr.

Brought over £.252,122 2 0

In this calculation no notice is taken of the thirds reserved on the bank lots (a copy of the patents J. Penn has by him to shew the nature of them*) and nine-tenths of the province remains undisposed of.

Three-fifths of all royal mines is reserved in the grants, and in all grants since the year 1732. One-fifth part of all other mines, delivered at the pit's mouth without charge, is also reserved.

No value is put on the proprietor's right to escheated lands; and, besides these advantages, several offices are in the proprietor's gift of considerable value.

Register general, about	£.200
Naval officer,	300
Clerk of Philadelphia,	400
——— Chester,	300
——— Bucks,	200
——— Lancaster,	200

Besides several other offices of less value. These are only guessed at.

The above paper has no date, but by sundry circumstances in it, particularly there being no value put on the thirds of the bank lots, because they were not then fallen in; and by the valuation put on the lands (which is very different from their present value) it must have been drawn while Mr. Thomas Penn resided in Pennsylvania, and probably more than twenty years ago: since which time a vast addition has been made to the value of the reserved lands, and a great quantity of land has been disposed of, perhaps equal to all preceding.

We must therefore add to the above sum of 252,122*l.* 2*s.* the following articles, viz.

1. For the increased value of the lands of the Conestogoe manor now valued at 400*l.* per hundred acres, and in the above estimate valued only at 40*l.* per hundred, the said increased value being 360*l.* per hundred, on 13,400 acres, ... 48,240 0 0

2. For the increased value of Gilbert's manor, now worth 400*l.* per hundred acres, ... 10,560 0 0

Carried over £.311,922 2 0

* By these patents, at the end of fifty years, the proprietor was to have one-third of the value of the lots and the buildings, and other improvements erected on them.

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	Pennsylva. Curr.
Brought over	£.311,922 2 0
3. For ditto on Springfield manor, now worth 500*l.* per hundred acres,	6800 0 0
4. For ditto on Highland's manor, now worth 350*l.* per hundred acres,	8000 0 0
5. For ditto on Springtown, now worth 400*l.* per hundred acres,	36,500 0 0
6. For ditto on Vincent's manor, now worth 300*l.* per hundred acres,	53,000 0 0
7. For ditto on Richland's, now worth 450*l.* per hundred acres,	43,500 0 0
9. For ditto on the 20 tracts, now worth 300*l.* per hundred acres,	26,000 0 0
8. For ditto on Springetsbury, &c. at least	2685 0 0
9. For ditto on all the articles of lots from No. 9 to 14, being trebled in value,	5060 0 0
15. For ditto on the Marsh land, now worth 20*l.* per acre,	10,200 0 0
16. For ditto on the value of lands within the draft of the town, now worth one with another, 50*l.* per acre,*	18,750 0 0
17. For ditto on Streiper's tract, now worth 325*l.* per hundred.	15,000 0 0
[On the next articles for the reserved rent, and the value of the government, we add no advance.]	
For the thirds of the Bank lots and improvements on them, as they fell in after this estimate was made;	
Carried over	£.537,217 2 0

* The lots of land within the plan of the town were originally promised to be given to the purchasers of land in the country. But that has been long since discontinued; and for many years past the proprietor has shut the office, and forbid his agents even to sell any more of them; intending to keep them all, till he can let them out on high ground rents, or on building leases. Five hundred acres divided into house lots, and disposed of in this manner, will alone make a vast estate. The old proprietor likewise in his plan of the city, laid out five large squares, one in each quarter, and one in the centre of the plan, and gave the same to the inhabitants for public uses. This he published in all his accounts of the country, and his papers of invitation and encouragement to settlers; but as no formal deed or conveyance of those squares is now to be found, the present proprietor has resumed them, turned them again into private property that the number of his lots may be increased; and his surveyor-general in his lately published plan of the city, has concealed all those squares by running intended streets over them. A proceeding equally odious to the people, and dishonorable to the family!

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	Pennsylva. Curr.	
Brought over	£.537,217	2 0
reckoning every 20 feet of ground with its improvements, one with another, worth 480*l.* the thirds being 160*l.* for each 20 feet, ...	37,280	0 0
	573,697	2 0
Thus far for the present value of what was then estimated, but since that time, very great quantities of land have been sold, and several new manors laid out and reserved; one of which, viz. that of Conedoguinet is said to contain 30,000 acres; the quantity sold since the estimate, must be at least equal to what was sold before, as the people are doubled, and the manors probably equal in quantity; we may therefore suppose, that a fair estimate of the lands sold, rents and manors reserved, and new towns laid out into lots, since the above estimate, would be at least equal to it, that is another tenth, and amount also to 573,697*l.* 2*s.* . . .	573,697	2 0
For eight of these nine-tenths of the province which were not disposed of at the time of making the estimate; note, the province grant to William Penn is of three degrees of latitude, and five of longitude; each degree of latitude contains 69 1-2 statute miles, and each degree of longitude about lat. 40, contains 53 statute miles; so the dimensions of the province are 265 miles by 208 1-2, which gives for its contents 55,252 1-2 square miles or thirty-five millions, three hundred and sixty-one thousand, six hundred acres; eight tenths of this quantity, is 28,289,280 acres, which at 15*l.* 10*s.* per 100 acres (the present selling price) is	4,384,838	8 0
For the yearly quit-rent on 28,289,280 acres at a half-penny sterling per acre, is 58,936*l.* per annum, which at 165 per cent. and 20 years purchase, is	1856,484	0 0
For the additional value on one-tenth part, at least, of those eight-tenths, which being picked out of the best of the lands after every purchase from the Indians, before any private person is allowed to take up any, and kept for 20 or 30 years, is to be sold at a medium for 300*l.* per 100 acres advance; this on 2,828,928 acres, is	8,486,784	0 0
For the three-fifths of all royal mines, and one-fifth of all other mines reserved to these lords proprietors, we		
	£.15,875,500	12 0

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Pennsylva. Curr.

Brought over £.15,875,593 12 3

can as yet estimate no sum, and must leave it a blank as we find it, but since in the ridges of mountains not yet settled, some very valuable specimens of ores have been found by travellers, it is not unlikely this article may in time become considerable beyond computation.

For the offices we shall likewise make no estimation, tho' they are greatly increased in number and value, with the increase of people; as we believe the proprietaries do not raise immediate money from the grants of those offices at present, they being chiefly disposed of to bribe or reward their partisans and favourites; in which however they may find their account.

For the escheats we likewise add nothing; for though it is thought a valuable article, we have no information on which we can form any judgment concerning its value, it must however be continually increasing.

There is another article, we are greatly at a loss about, which is the interest of money arising to the proprietors from securities on lands possessed by persons unable to make present payment. These pay not only quit-rent for the land but interest for the purchase money. This interest* is thought to be a very considerable income, but we cannot estimate it.

The three lower counties on Delaware, which are a distinct territory and government from the province of Pennsylvania, and held by a different title, are also a very valuable part of the proprietary estate; though what value should be put on the same is at present difficult to say.

Total in Pennsylvania currency, £ 15,875,500 12 0

In sterling, about ten millions!

But on the whole, it appears pretty clearly, that deducting all the articles containing the valuation of lands yet unsold, and unappropriated within their patent, and the manors and rents to be hereafter reserved, and allowing for any small over-valuations in their present reserved lands and incomes [though it is thought if any be it will not be found to exceed the under-valuation in other instances] there cannot remain less than a million of property which they now at this time have in Pennsylvania.

And in that province there are about twenty thousand families, to each of which, one with another, there does not belong more than three hundred pounds of property, if so much; which multiplied by twenty thousand gives six million pounds for the whole property of the people there.

* See Fisher's account hereafter.

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The proprietaries then have in present possession a property there at least equal to one-sixth of that of the people. They ought therefore to pay the same proportion of the taxes.

That the reader may form some judgment of the profits made by this monopoly of land in America, in favor of the house of Penn, we shall just mention, that the land is first purchased of the Indians within the limits of their grant: the Indians of late years have somewhat raised their price; and for the last great purchase in 1754, which was of about seven millions of acres, they demanded (how much do you think?) no less than two thousand dollars amounting, at seven and sixpence currency each, to seven hundred and fifty pounds.

Pennsylva. Curr.

The land so bought the proprietor has the moderation to sell (except the best of it reserved in manors for himself) at so low a price as 15*l.* 10*s.* per hundred acres, which will produce - - - - - - - - - - - -	£.1,085,000 0 0
Deduct the purchase money	750 0 0
Remains profit	1,084,250 0 0
Besides the profit of a tenth of the seven millions of acres, reserved in manors to be sold hereafter at an advance of at least three hundred pounds per hundred acres,	2,100,000 0 0
And also the quit-rent to be reserved on seven millions of acres, at a halfpenny sterling per acre, 14,583*l.* 6*s.* 8*d.* which at 165 per cent. and 20 years purchase, is worth	481,250 0 0
Profit, in all	£ 3,665,500 0 0

But the Indian council at Onondago not being satisfied with the sale of so much land at once, the proprietors have since been obliged to disgorge a part of the hunting country they had not paid for, and re-convey the same to the Indians, who, when they are disposed to sell it, may possibly demand two thousand dollars more, for which the above account must then have credit.

One would think, that where such good bargains are bought of the poor natives, there should be no occasion for fraudulent art to over-reach them, in order to take more than is granted; and that if a war occasioned by such injuries, should be drawn upon the innocent inhabitants, those who were the cause of the war, if they did not, as in justice they ought, bear the whole expence of it, at least they would not refuse to bear a reasonable part. Whether this has ever been the case is now a subject of public enquiry.

But let us see how the land bought in such lumping pennyworths of the natives by the monopolist, is huckstered out again to the king's subjects. To give the reader some idea of this, after remarking that fifteen pounds ten shillings per hundred acres for wild land, is three times dearer than

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the proprietor of Maryland's price, and ten times dearer than his majesty's lands in Virginia and Carolina, both as good if not better countries, we shall present him with a genuine account, stated under the hand of the proprietor's receiver-general, obtained with great difficulty by the purchaser of two tracts of land, some time after he had paid his money; when on more particular consideration of the sum paid compared with the quantity bought, he imagined he had paid too much. The account is as follows, viz.

John Fisher in right of Jacob Job. *Dr.*

	£.	s.	d.
To land, 423 acres 53 perches, in Pextang township, Lancaster county, granted to said Job, by warrant of March 19, 1742,	65	12	1
Interest from 1st March, 1732, to 19th March, 1742, is 10 years 18 days,	39	11	2
	105	3	3
19th March, 1742, paid	15	0	0
	90	3	3
Interest from 19th March, 1942, to 20th February, 1747, is 4 years, 11 months, 1 day,	26	11	11
Quit-rent to next month is 15 years, 13*l.* 4*s.* 7*d.* sterling, at 85 per cent.	24	9	6
	141	4	8

John Fisher in right of Thomas Cooper, *Dr.*

	£.	s.	d.
To land, 268 acres in Pextang township, Lancaster county, granted by warrant of 9th January, 1743, to said Cooper,	41	10	9
Interest from 1st March, 1737, to 9th January, 1743, is 5 years, 10 months, 8 days,	14	11	9
	56	2	6
19th January, 1743, paid	7	10	0
	48	12	6
Interest from 9th January, 1743, to 20th February, 1747, is 4 years, 1 month, 11 days,	11	19	10
Quit-rent to next month is 10 years, 5*l.* 11*s.* 8*d.* sterling, at 85 per cent.	10	6	7
	70	18	11

20th February, 1747.

£.	141	4	8
	70	18	11
	212	3	7
	10	0	Transfer, &c.
	212	13	7

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Philadelphia, 23d February, 1747.

Received of John Fisher, two hundred and twelve pounds, three shillings and seven pence, in full for 423 acres in Pextang township, granted by warrant of 19th March, 1742, to Jacob Job, and for 268 acres in same township, by warrant of 9th January, 1743, to Thomas Cooper, both in the county of Lancaster.

£.212	3	7
10	0	fees
212	13	7

N.B. The quit-rent in full to 1st March, 1747.

For the honorable proprietaries,
LYNFORD LARDNER, Receiver Gen.

The purchaser not being skilled in accounts, but amazed at the sum, applied to a friend to examine this account, who stated it over again as follows, viz.

John Fisher in the right of Jacob Job, Dr.

1742 19th March.	To 423 acres, 50 per. of land, in Pextang, county Lancaster, granted to said Job by warrant dated this day	£.65	12	1
	By cash paid that day	15	0	0
		£.50	12	1
	To interest on 50*l.* 12*s.* 1*d.* from the 19th March, 1742, to 20th February, 1747, being four years eleven months and one day.	14	18	9
	To five years quit-rent for said land at one half-penny sterl. per acre per ann. viz. from March 1742, the time the land was surveyed (for quit-rent ought not to be paid before) to March, 1747, amounting in the whole to 4*l.* 8*s.* 4*d.* sterl. at eighty-five per cent. the exchange charged in the account delivered	8	5	9
	20th February, 1747. Sum due on Job's right	£.73	16	7

John Fisher in right of Thomas Cooper, Dr.

1743. 9th January.	To 268 acres of land in Pextang aforesaid, granted said Cooper by warrant this day	£.41	10	9
	By cash paid that day	7	10	0
	9th January, 1743, balance due	£.34	0	9
	To interest on 34*l.* 0*s.* 9*d.* from 9th January, 1743, to 20th February, 1747, being four years one month and eleven days.	8	7	8
	Carried over	£.42	8	5

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Brought over	£.42	8	5
To four years and two months quit-rent for said lands, viz. from January, 1743, to the 1st March, 1747, amounting in the whole to 2*l*. 6*s*. 6*d*. sterling, at eighty-five per cent - - - - -	4	7	$2\frac{1}{4}$
20th Feb. 1747. Sum due on Cooper's right	£.46	15	$7\frac{1}{4}$

In Feb. 1747, John Fisher obtained a proprietary patent for the lands above-mentioned. But by the accompts then exhibited to him, and which he paid, he was charged on Job's right one hundred and forty-one pounds four shillings and eight pence, which is sixty-seven pounds eight shillings and a penny more than the above account, and also was charged on Coopers right, seventy pounds eighteen shillings and eleven pence, which is twenty four pounds three shillings and three pence three farthings more than the above accompt of Cooper's. So that by the two accompts it is supposed he has paid ninety-one pounds eleven shillings and four pence three farthings more than could legally be received from him.

The reason of such great difference in the accompts are as follow, viz.

1st That interest has been charged on the consideration money for Job's land for ten years and eighteen days, before the land was surveyed.

2d That quit-rent has also been charged for that time at 85 per cent.

3d That the principal and interest to the time of warrant and survey were added together, and that interest was charged for that total to the time the patent was granted.

4th That interest has been charged on the consideration money for Cooper's land, for five years ten months and eight days, before the land was surveyed.

5th That quit-rent has also been charged for that time at 85 per cent.

6th That the principle and interest to the time of warrant and survey were added, and interest charged for that total to the time the patent was granted, which is compound interest.

To these remarks of the accountant we shall only add, that the price of exchange between Philadelphia and London is not fixed, but rises and falls according to the demand for bills; that eighty-five per cent. charged for the exchange in this account is the highest exchange that perhaps was ever given in Pennsylvania, occasioned by some particular scarcity of bills at a particular time; that the proprietor himself in his estimate reckons the exchange but at 65, which is indeed near the medium, and this charge is twenty per cent. above it. That the valuing the currency of the country according to the casual rate of exchange with London, is in itself a false valuation, the currency not being really depreciated in proportion to an occasional rise of exchange; since every necessary of life is to be purchased in the country, and every article of expence defrayed by that currency (English goods only excepted) at as low rates after as before such rise of exchange; that therefore the proprietor's obliging those who purchase of him to pay their rents according to the rate of exchange is unjust, the rate

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of exchange including withal the risque and freight on remitting money to England; and is besides a dangerous practice, as the great sums to be yearly remitted to him, put it in the power of his own agents to play tricks with the exchange at pleasure, raise it at the the time of year when they are to receive the rents, by buying a few bills at a high price, and afterwards lower it by refraining to buy till they are sold more reasonably.

By this account of the receiver general's, it appears we have omitted two other articles in the estimation of the proprietary estate, viz.

For the quit-rents of lands many years before they are granted!

For the interest of the purchase-money many years before the purchases are made!

On what pretence these articles of charge are founded, how far they may be extended, and what they may amount to, is beyond our knowlege; we are therefore obliged to leave them blank till we can obtain more particular information.

Although we have not in this work taken particular notice of the numerous falshoods and calumnies which were continually thrown out against the assembly and people of Pennsylvania, to keep alive the prejudices raised by the arts of the proprietary and his agents; yet as we think it will not be deemed improper to give the reader some specimen of them, we shall on that account, and as it affords additional light concerning the conduct and state of that province, subjoin a paper printed and published here in September, 1757, by a gentleman who had the best opportunities of being acquainted with the truth of the facts he relates. Any other proof, indeed, of their authenticity can scarce be thought requisite, when 'tis known that since that time no one has ever offered to publish the least thing in contradiction; although before, scarce a week elapsed without the news papers furnishing us with some anonymous abuse of that colony.

To the printer of the Citizen, or, General Advertiser.

SIR,

IN your paper of the ninth instant, I observe the following paragraph, viz. 'The last letters from Philadelphia bring accounts of the scalping the inhabitants of the back provinces by the Indians; at the same time the disputes between the governor and the assembly are carried on to as great a heighth as ever, and the messages sent from the assembly to the governor,

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and from the governor to the assembly, are expressed in terms which give very little hopes of a reconciliation. The bill to raise money is clogged, so as to prevent the governor from giving his consent to it; and the obstinacy of the quakers in the assembly is such, that they will in no shape alter it; so that while the enemy is in the heart of the country, cavils prevent any thing being done for its relief. Mr. Denny is the third governor with whom the assembly has had these disputes within a few years.'

As this paragraph, like many others heretofore published in the papers, is not founded in truth, but calculated to prejudice the public against the quakers and people of Pennsylvania, you are desired to do that injured province some justice in publishing the following remarks; which would have been sent you sooner had the paper come sooner to my hands.

1. That the scalping of the frontier inhabitants by the Indians is not peculiar to Pennsylvania, but common to all the colonies in proportion as their frontiers are more or less extended and exposed to the enemy. That the colony of Virginia, in which there are very few, in any, quakers, and none in the assembly, has lost more inhabitants and territory by the war than Pennsylvania. That even the colony of New York, with all its own forces, a great body of New-England troops encamped on its frontier, and the regular army under lord Loudon posted in different places, has not been able to secure its inhabitants from scalping by the Indians; who coming secretly in very small parties skulking in the woods, must sometimes have it in their power to surprize and destroy travellers, or single families settled in scattered plantations, notwithstanding all the care that can possibly be taken by any government for their protection. centinels posted round an army, while standing on their guard, with arms in their hands, are often killed and scalped by Indians. How much easier must it be for such an enemy to destroy a ploughman at work in his field?

2. That the inhabitants of the frontiers of Pennsylvania are not quakers, were in the beginning of the war supplied with arms and ammunition by the assembly, and have frequently defended themselves and repelled the enemy, being withheld by no principle from fighting; and the losses they have suffered were owing intirely to their situation, and the loose scattered manner in which they had settled their plantations and families in the woods, remote from each other, in confidence of lasting peace.

3 That the disputes between the late and present governors and the assembly of Pennsylvania, were occasioned and are continued cheifly by new instructions from the proprietors to those governors, forbidding them to pass any laws to raise money for the defence of the country unless the proprietary estate, or much the greatest part of it was exempted from the tax to be raised by virtue of such laws, and other clauses inserted in them by which the privileges long enjoyed by the people, and which they think they have a right to, not only as Pennsylvanians but as Englishmen, were to be extorted from them, under their present distresses. The quakers, who, though the first settlers, are now but a small part of the people of Pennsylvania, were concerned in these disputes only as inhabitants of the

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province, and not as quakers; and all the other inhabitants join in opposing those instructions, and contending for their rights, the proprietary officers and dependants only excepted, with a few of such as they can influence.

4. That though some quakers have scruples against bearing arms, they have, when most numerous in the assembly, granted large sums for the king's use, (as they express it) which have been applied to the defence of the province; for instance, in 1755 and 1756, they granted the sum of fifty-five thousand pounds to be raised by a tax on estates real and personal; and 30,000 pounds to be raised by excise on spirituous liquors; besides near ten thousand pounds in flour, &c. to general Braddock, and for cutting his roads, and ten thousand pounds to general Shirley in provisions for the New England and New York forces, then on the frontiers of New York; at the same time that the contingent expences of government, to be otherwise provided for, were greatly and necessarily enhanced. That, however, to remove all pretence for reflection on their sect, as obstructing military measures in time of war, a number of them voluntarily quitted their seats in assembly in 1756; others requested their friends not to choose them in the ensuing election, nor did any of that profession stand as candidates or request a vote for themselves at that election, many quakers refusing even to vote at all, and others voting for such men as would and did make a considerable majority in the house who were not quakers; and yet four of the quakers, who were nevertheless chosen, refused to serve, and writs were issued for new elections, when four others not quakers were chosen in their places; so that of 36 members, the number of which the house consists, there are not at the most above 12 of that denomination, and those such as are well known to be for supporting the government in defence of the country, but are too few if they were against such a measure, to prevent it.

5. That the bill to raise money, said in the above article of news, to be 'so clogged as to prevent the governor from giving his assent,' was drawn in the same form, and with the same freedom from all clogs, as that for granting sixty thousand pounds which had been passed by the governor in 1755, and received the royal approbation; that the real clogs or obstructions to its passing were not in the bill, but in the above-mentioned proprietary instructions; that the governor having long refused his assent to the bill, did, in excuse of his conduct, on lord Loudon's arrival at Philadelphia in March last, lay his reasons before his lordship, who was pleased to communicate them to one of the members of the house, and patiently to hear what that member had to say in answer, the governor himself being present; and that his lordship did finally declare himself fully satisfied with the answers made to those reasons, and give it as his opinion to the governor that he ought immediately to pass the bill, any instructions he might have to the contrary from the proprietors notwithstanding; which the governor accordingly complied with, passed the bill, on the 22d of March, and the money, being 100,000*l.* for the service of the current year, has been ever since actually expending in the defence of the province. So

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that the whole story of the bill's not passing, the clogging of the bill by the assembly, and the obstinacy of the quakers preventing its passage, is absolutely a malicious and notorious falshood.

6. The assertion of the news-writer, 'that while the enemy is in the heart of the country, cavils prevent any thing being done for its relief,' is so far from being true, that, 1st. The enemy is not nor ever was in the heart of the country, having only molested the frontier settlements by their parties. 2dly, More is done for the relief and defence of the country, without any assistance from the crown, than is done perhaps by any other colony in America; there having been, soon after the war broke out, the following forts erected at the province expence, in a line to cover the frontier, viz. Henshaw's fort on Delaware, fort Hamilton, fort Norris, fort Allen, fort Franklin, fort Lebanon, fort William Henry, fort Augusta, fort Halifax, fort Granville, fort Shirley, fort Littleton, and Shippensburg fort, besides several smaller stockades and places of defence, garrisoned by troops in the pay of the province; under whose protection the inhabitants, who at first abandoned their frontier settlements, returned generally to their habitations, and many yet continue, though not without some danger, to cultivate their lands; by these Pennsylvania troops, under col. Armstrong, the greatest blow was given to the enemy last year on the Ohio, that they have received during the war; in burning and destroying the Indian town of Kittanning, and killing their great captain Jacobs, with many other Indians, and recovering a number of captives of their own and the neighbouring provinces; besides the garrisons in the forts, eleven hundred soldiers are maintained on the frontier in pay, being armed and accoutred, by the province, as ranging companies. And at Philadelphia fifteen iron cannon, eighteen pounders, were last year purchased in England and added to the fifty they had before, either mounted on their batteries, or ready to be mounted, besides a train of artillery, being new brass field-pieces twelve and six pounders, with all their appurtenances in extreme good order, and a magazine stored with ammunition, a quantity of large bomb-shells, and above two thousand new small arms lately procured, exclusive of those in the hands of the people. They have likewise this summer fitted out a twenty gun province ship of war, to scour the coast of privateers, and protect the trade of that and the neighbouring provinces, which is more than any other colony to the southward of New England has done. Pennsylvania also by its situation covers the greatest part of New Jersey, all the government of the Delaware counties, and great part of Maryland, from the incursions of the Indians, without receiving any contribution from those colonies, or the mother country, towards the expence.

The above are facts, consistent with the knowlege of the subscriber, who but lately left Philadelphia, is now in London, is not nor ever was a quaker, nor writes this at the request of any quaker; but purely to do justice to a province and people of late frequently abused in nameless papers and pamphlets published in England. And he hereby calls upon the writer of

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that article of news to produce the letters out of which he says, he has drawn those calumnies and falshoods, or to take the shame to himself.

WILLIAM FRANKLIN.

Pennsylvania Coffee-House, London, Sept. 16, 1757.

To what is said in the foregoing letter, concerning Col. Armstrong's expedition to Kittanning, it may not be amiss to add, for the information of the reader, that it was with no small difficulty the commissioners, who were joined with the governor in the disposition of the money granted for the war, obtained the employing a part of the provincial forces as rangers. They repeatedly remonstrated to the governor, that the only effectual manner of carrying on a war with Indians was to fight them in their own way, i. e. to send parties frequently into the Indian country to surprize them in their hunting and fishing, destroy their corn fields, burn their habitations, and, by thus continually harassing them, oblige them either to sue for peace, or retire farther into the country. The experience of many years Indian war in New England was in favor of this measure. The governor himself could not but ackowlege its expediency. There were motives, however, which, with him, outweighed all other considerations; and induced him, though publicly, to approve, yet secretly to decline carrying it into execution. A militia law was the grand object he had in view, in which he aimed to have the sole nomination of all the officers. These were of course to be proprietary minions and dependants, who, by means of their power, were to awe and influence the elections, and make a change in the assembly: for draughts of such as were most likely to give opposition might easily be made and sent to garrison the frontier. Should therefore the commissioners scheme of carrying the war into the enemies country, be attended with success, and a stop be thereby put to their future incursions, the governor's main pretext for a militia (which was the enabling him to defend the frontier) would of consequence have no longer any appearance of weight. The commissioners, notwithstanding, obstinately persevered in urging that parties should be sent out in the manner they recommended. The governor was at length obliged to consent, and give orders to col. Armstrong for that purpose. Under-hand measures seem however to have been taken to render this project fruitless. Such delays were given from time to time to the march of the forces, after the intention of the undertaking was publicly known (which by the bye was to have been kept a secret) that the enemy might easily have received intelligence of our designs; and, moreover, such a considerable number of men were added to the party as rendered it highly improbable they should reach the place of their destination undiscovered, upon which depended the whole of their success. By great good luck, they nevertheless unexpectedly arrived at Kittanning, and succeeded as above. Encouraged by this fortunate event of their first attempt the commissioners earnestly pressed that this blow might be followed by another of the same kind, so that the ene-

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my might be kept in continual apprehensions of danger. But these encouragements to the commissioners, to persist in their plan of operations, were inducements with the new governor, as they had been with his predecessor, to evade a compliance.

The darling project of a militia law was of more consequence than the preservation of the blood and treasure of people with whom he had no natural connection. And the result is, that notwithstanding the commissioners have over and over strenuously endeavoured to have parties of rangers sent again into the enemy's country, they have never since been able to prevail with the governor to send them. On the contrary, though they could furnish ten parties for one of the Indians, the forces have been confined within the forts taught regular military discipline (which is in fact undisciplining them for Indian war) and allowed to do scarce any thing but garrison duty. In the mean time the Indians have been suffered to come down between the forts, murder and scalp the inhabitants, and burn and destroy their settlements, with impunity. That a militia, had the governor such a one as he wishes, could not prevent these outrages, is obvious to every man of common understanding. Frequent trials of this have been made in Virginia, and other governments where militias have been long in use. The consequence of which was, that after the governors had, upon the news of any incursions of the enemy, taken the inhabitants from their several businesses and occupations (oftentimes farmers in the midst of harvest) furnished provisions and other necessaries, and marched them, at a great expence, to the place attacked, it was found that the enemy were fled, and perhaps doing mischief in another part of the frontier, at fifty or a hundred miles distance. The people therefore say with truth, that it would be far less expensive and inconvenient to them, to raise and pay a number of rangers to be continually employed in that service. And it is certain, that were but a few rangers properly employed, they would be more effectual in subduing such an enemy, than all the militia or regular forces on the continent of America. The sending of these against scouting parties of Indians, being, as the proverb has it, setting a cow to catch a hare.

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Account of sundry sums of money paid by the province of Pennsylvania for his majesty's service, since the commencement of hostilities by the French in North America; exclusive of the general contingent expences of the government, which have from that time increased very considerably.

EXTRACTED FROM THE JOURNALS OF THE ASSEMBLY.

		Pennsylva. Curr.		
1754, and 1755.	FOR provisions supplied the king's forces under the command of general Braddock; for opening and clearing a road towards the Ohio; and for establishing a post between Winchester in Virginia and Philadelphia, for the use of the army, at the request of the said general. . .	£.8195	14	8
	For provisions supplied the New England, and New York forces, under general Johnson . .	10,000	0	0
	For clothing sent the forces under general Shirley	514	10	1
	For presents to the Six nations and other Indians in alliance with the crown of Great Britain, and the expence attending two treaties held with them for securing them to the British interest.	2023	5	0
	For maintenance of the Ohio and other Western Indians, who had taken refuge in Pennsylvania; French deserters; soldiers wives belonging to Braddock's army; arms and ammunition delivered to such of the frontier inhabitants as were not able to purchase any for their defence; relief and support of sundry of said inhabitants who were driven from their plantations by the enemy; and for expresses and other purposes for his majesty's service. . .	5653	13	2
	[The above sums were paid out of the treasury and loan-office, and by money borrowed on the credit of the house of assembly, before the governor could be prevailed on to pass any bills for granting an aid to his majesty.]			
1756.	For raising, paying, and maintaining forces; building forts; maintaining and treating with			
	Carried over	£.26.387	2	11

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Pennsylva. Curr.

	Brought over	£.26,387	2	11
	the king's Indian allies; support of French neutrals sent from Nova Scotia; billetting and supplying with necessaries the king's regular forces; and other purposes for his majesty's service, as recommended by his ministers. [By two acts of assembly, 60,000*l.* and 30,000*l.*]	90,000	0	0
1757.	For ditto by another act of assembly. . . .	100,000	0	0
1758.	For ditto by ditto. [Note 2700 men were raised and employed this year in his majesty's service, by the province of Pennsylvania, in pursuance of Mr. secretary Pitt's letter.]	100,000	0	0
	For support of a ship of war for protection of trade, (by a duty on tonnage, &c.) for a six months cruise.	6425	15	0
	For interest paid by the province for money borrowed for his majesty's service on the credit of the assembly; the charges attending the printing and signing the paper-money, and collecting, and paying the several taxes granted his majesty, to the provincial treasurer and trustees of the loan-office, with their and the provincial commissioner's allowances for their trouble, may at least be estimated at	5000	0	0
	For sundry Indian expences, omitted in the above	38	13	0
		£.327,851	10	11
	From which deduct one-third to reduce the sum to sterling value; an English shilling passing for 1*s.* 6*d.* in Pennsylvania.	109,283	16	11
	Sterling	£.218,567	14	0

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As the reader may possibly be curious to know, whether any similar disputes arose between the proprietaries and the several assemblies of the territory, or three separate counties, it may be proper to inform him, that the forbearances of these gentlemen in that district, were altogether as remarkable as their assumptions in the province; and to refer him to the following extract of a genuine letter of Mr. secretary Logan's to one Henry Goldney, an intimate friend of the first proprietary William Penn, for a solution of all doubts concerning the difference.

Philadelphia, 3d month the 12th, 1709.

HENRY GOLDNEY,

Esteemed friend,

'I WAS favored last fall with thine and other friends answer to mine of 3d month last; the contents of which were extremely satisfactory, and on my part I shall not be wanting to discharge my duty to the utmost of my power; but in my opinion, since the proprietor has several times mentioned that he had proposals made to him for the purchase of a large tract of land on Susquehannah, for which he had an offer of 5000*l.* sterling, it would be most adviseable for him to accept of any such terms, that so he may speedily have the management of his country to himself, by paying the debt there which he has contracted upon it; to which I wish thee and his other good friends would earnestly press him, for in himself I know he is in such cases somewhat too doubtful and backward.

'I now design, through the greatest confidence in thy friendship both to him and me, to be very free with thee in an affair that nearly concerns him and this country in general, in which I shall request thee to exercise thy best thoughts, and, according to the result of these heartily to employ the necessary endeavors; the case is briefly as follows:

'This government has consisted of two parts; the province of Pennsylvania, and the three lower counties on Delaware. To the first the proprietor has a most clear and undoubted right, both for soil and government, by the king's letters patents or royal charter; for the latter he has much less to shew; for the soil he has deeds of feofment from the duke of York, but for the government not so much as is necessary. After his first arrival, however, in these parts, he prevailed with the people both of the province and those counties to join in one government under him, according to the powers of the king's charter, which nevertheless extended to the province only, and so they continued, not without many fractions, till after the time of his last departure, when some disaffected persons took advantage of a clause, which he had unhappily inserted in a charter he gave the people, and broke off entirely from those lower counties; since which time we have had two assemblies, that of the province acting by a safe and indisputed

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power, but that of the other counties without sufficient (I doubt) to justify them. Last fall the assembly of those counties took occasion to inquire into their own powers, upon a design to set new measures on foot, and have sent home an address by one of their members, Thomas Coutts's brother, who is to negociate the matter with the lords of trade and the ministry, to obtain powers to some person or other, who the queen may think fit (though Coutts designs it for himself) to discharge all the necessary duties of government over them. This I doubt will give the proprietary great trouble, for when the council of trade is fully apprised, as by this means they will be, that those counties are entirely disjoined from the province, it is probable they may more strictly inquire into the proprietor's right of government and legislation with the people there; and it is much to be feared that they may advise the queen to dispose of the government of those parts some other way, which would be exceedingly destructive to the interest of the province in general. * * * * * *

'Upon the whole what I have to propose is this, whether it would not be most adviseable for the proprietor to consider in time what measures are most fit for him to take for his own and the country's interest, before the blow falls so heavy that it may prove difficult, if at all practicable, for him to ward it off; whether, therefore, it may not be most prudent to part with the government of both province and lower counties together, upon the best terms that can be obtained, before it proves too late for him to procure any. If he should hold the government of the province, nay even of the whole, during his life, he will never gain any thing by it; and, after his decease, it will be lost, or at least be put out of the hands of friends, and perhaps without any previous terms at all, when now he may be capable himself to negociate a surrender, both to his own particular interest, and greatly to the advantage of the profession; but whenever this is done, he should remember our present lieutenant-governor, who will be a sufferer (I fear at best) by undertaking the charge; and if any thing fall of course in the way, I wish he would not quite forget an old trusty servant of his, who has been drudging for him these ten years (but that is not the business). This I thought necessary to advise thee of, considering thee as one of his best and heartiest friends, and desire thee to communicate the matter to such others as may be most serviceable, but by no means expose this letter, for I would have that kept very private. I have wrote to the same purpose to the proprietary himself very fully, but finding, by long experience, how little it avails to write to himself alone of matters relating to his own interest, I now choose this method, and give this early notice before the addresses from hence shall come to hand, which, with the address already gone from the lower counties, will certainly do our business whether the proprietor will agree to it or not, and therefore best take time while it offers. I shall commit this to thy prudence and discretion, and conclude, Thy real loving friend,

'JAMES LOGAN.'

END OF THE VOLUME.

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